

**FINAL PROGRAMMATIC ENVIRONMENTAL ASSESSMENT FOR
IMPLEMENTATION OF THE VOLUNTARY PUBLIC ACCESS AND HABITAT
IMPROVEMENT PROGRAM (VPA-HIP)
FOR NORTH DAKOTA**



JANUARY 2011

(This page intentionally left blank)

FINDING OF NO SIGNIFICANT IMPACT

Voluntary Public Access and Habitat Incentive Program State of North Dakota

February 2011

INTRODUCTION

The United States Department of Agriculture Farm Service Agency proposes to implement a new program authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) in the State of North Dakota. The Voluntary Public Access and Habitat Incentive Program (VPA-HIP) provides grants to State and tribal governments to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting, fishing, and other compatible recreation and to improve fish and wildlife habitat on their land. The VPA-HIP is administered by the State or tribal government that receives the grant funds.

The State of North Dakota, through the North Dakota Game and Fish Department (Department), proposes to use VPA-HIP grant funds to expand its existing public access programs to provide the public with more opportunities for walk-in hunting. The Department works closely with over 2,500 landowners who voluntarily participate in existing private land access programs such as the CRP Access program, Habitat Plot program, Working Lands program, Food Plot program, Private Forest Conservation program and others. These programs provide financial incentives to allow public access to their lands as well as providing cost share to improve wildlife habitat. These programs have opened more than one million acres of private land to the public in North Dakota.

PREFERRED ALTERNATIVE

The Preferred Alternative is the Proposed Action use VPA-HIP funds to expand its current Wetland Reserve Program (WRP) Incentive to provide the public with more opportunities for walk-in hunting. The WRP Incentive program is a hunting access program that dovetails with the Natural Resources Conservation Service (NRCS) Wetland Reserve Program (WRP). The WRP Incentive program provides private landowners an opportunity to allow walk-in hunting access in exchange for financial incentives.

REASONS FOR FINDING OF NO SIGNIFICANT IMPACT

In consideration of the analysis documented in the Programmatic Environmental Assessment (EA) and in accordance with Council on Environmental Quality regulations 1508.27, the preferred alternative would not constitute a major State or Federal action affecting the human and natural environment. Therefore, this Finding of No Significant Impact (FONSI) has been prepared and an Environmental Impact Statement will not be prepared. This determination is based on the following:

1. The proposed action will have long-term beneficial impacts to the hunting public from increased walk in access opportunities.
2. The preferred alternative would not affect public health or safety.
3. Unique characteristics of the geographic area (cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, and ecologically critical areas) would not be negatively impacted from implementation of the preferred alternative.
4. There are no negative impacts on the quality of the human environment expected.
5. The potential impacts on the human environment as described in the Programmatic EA are not uncertain nor do they involve unique or unknown risks.
6. The preferred alternative would not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration.
7. Cumulative impacts of the preferred alternative in combination with other recent, ongoing, or foreseeable future actions are not expected to be significant.
8. The preferred alternative would not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places.
9. The preferred alternative would not have negative impacts to wildlife and their habitats, including endangered and threatened species under the Endangered Species Act of 1973.
10. The preferred alternative does not threaten a violation of Federal, State, or local law imposed for the protection of the environment.

DETERMINATION

On the basis of the analysis and information contained in the Programmatic EA and FONSI, it is my determination that adoption of the preferred alternative does not constitute a major Federal action affecting the quality of the human and natural environment. Barring any new data identified during the public and agency review of the Final Programmatic EA that would dramatically change the analysis presented in the EA or identification of a significant controversial issue, the Programmatic EA and this FONSI are considered Final 30 days after date of initial publication of the Notice of Availability.

APPROVED: 
Signature

February 7, 2011
Date

Cover Sheet

Proposed Action: The proposed action is to implement the VPA-HIP in North Dakota. The Department will offer an additional incentive of 15 percent of the NRCS-developed GARC value of WRP lands in exchange for 30-years of walk-in public access for hunting through the Private Land Open To Sportsmen (PLOTS) Program. Each parcel of WRP land enrolled in the Conservation PLOTS program will be identified by yellow triangle signs around the boundary.

Type of Document: Programmatic Environmental Assessment

Lead Agency: USDA, FSA

Sponsoring Agency: North Dakota Game and Fish Department

Cooperating Agency: None

Comments: This Programmatic Environmental Assessment was prepared in accordance with USDA FSA National Environmental Policy Act (NEPA) implementation procedures found in 7 CFR 799, as well as the NEPA of 1969, Public Law 91190, 42 United States Code 4321-4347, 1 January 1970, as amended. A Notice of Availability was released on February 21, 2011 announcing a 30-day comment period. A copy of the document can be found on the USDA FSA website: www.fsa.usda.gov.

Comments will be accepted for 30 days and may be submitted via e-mail to: kkading@nd.gov or via mail to the following address: North Dakota Game and Fish Department, 100 North Bismarck Expressway, Bismarck, ND 58501. Attention Kevin Kading.

(This page intentionally left blank)

EXECUTIVE SUMMARY

The United States Department of Agriculture Farm Service Agency proposes to implement a new program authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) in the State of North Dakota. The Voluntary Public Access and Habitat Incentive Program (VPA-HIP) provides grants to State and tribal governments to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make that land available for access by the public for wildlife-dependent recreation, including hunting, fishing, and other compatible recreation and to improve fish and wildlife habitat on their land. The VPA-HIP is administered by the State or tribal government that receives the grant funds.

The North Dakota Game and Fish Department (Department) proposes to implement the Voluntary Public Access and Habitat Incentive Program (VPA-HIP). The Department is proposing to use VPA-HIP funds to expand its current Wetland Reserve Program (WRP) Incentive to provide the public with more opportunities for walk-in hunting. The WRP Incentive program is a hunting access program that dovetails with the Natural Resources Conservation Service (NRCS) Wetland Reserve Program (WRP). The WRP Incentive program provides private landowners an opportunity to allow walk-in hunting access in exchange for financial incentives.

Proposed Action

The Proposed action is to implement the VPA-HIP in North Dakota. The Department will offer an additional incentive of 15 percent of the NRCS-developed GARC value of WRP lands in exchange for 30-years of walk-in public access for hunting through the Private Land Open To Sportsmen (PLOTS) Program.

Purpose and Need

The purpose of the Proposed Action is to use VPA-HIP grant funds to offer an additional incentive of 15 percent of the total value in exchange for 30-years of walk-in public access for hunting through the Private Land Open To Sportsmen (PLOTS) Program. The objective of the program is to enroll 20,000 acres of WRP into public access agreements for 30 years resulting in 600,000 acre-years of public access to quality wildlife habitat. By providing access to WRP contracts, the Department is essentially banking acres ahead for the future. Nearly 8,000 acres (240,000 acre-years) are already enrolled in the program and \$850,000 of federal Pittman-Robertson funds (\$637,500 federal – 75%, and \$212,500 state – 25%) are currently budgeted for new offers, however, the current budget will only fund approximately 6,500 acres (195,000 acre-years). This leaves a goal shortfall of 5,500 acres. The amount of additional funding through VPA-HIP will help NDGF to reach this goal.

Environmental Consequences

This Programmatic Environmental Assessment has been prepared to analyze the potential environmental consequences associated with implementing the Proposed Action (Preferred Alternative) or the No Action Alternative. Under the Proposed Action, UDWR would utilize VPA-HIP funds to offer an additional incentive of 15 percent of the total value in exchange for 30-years of walk-in public access for hunting through the Private Land Open To Sportsmen (PLOTS) Program. Under the No Action Alternative, the Department's WRP Incentive program would continue as administered, but would not reach desired goals. The potential environmental consequences of implementing the Proposed Action would be beneficial to the hunting public, private landowners and local and rural economies as increased opportunities for walk-in hunting will be realized. A summary of environmental consequences is provided in the following table.

Resource	Proposed Action	No Action
Biological Resources (vegetation, wildlife and T&E species)	<ul style="list-style-type: none"> • Minor, short-term impacts to vegetation from walk-in foot traffic on these areas during peak of hunting season. • Long term hunting access on these areas will benefit public and will not impact vegetation over the long term • Minor, short term impact to vegetation during initial boundary signing efforts from ATV or foot traffic. • Increased hunting opportunities may increase the potential to impact game species. Hunting will be used as an essential management tool to obtain adequate harvest of games species in accordance with state hunting laws and regulations. • Disturbance or incidental take of T&E species by increase hunting. 	<ul style="list-style-type: none"> • Expansion of the WRP Incentive program would not occur and VPA-HIP funding would not be available for walk-in public access programs. • Long term benefits to the public for hunting opportunities from walk-in access programs would not be realized. • Fewer hunting opportunities will result in less harvest of game species. • No disturbance or incidental take of T & E species.
Recreation	<ul style="list-style-type: none"> • Long term beneficial impacts to recreation are expected as a result of increased walk-in access opportunities for 	<ul style="list-style-type: none"> • Expansion of the WRP Incentive program would not occur And VPA-HIP funding would not be available for

	<p>public to enjoy wildlife resources.</p> <ul style="list-style-type: none"> Increased hunting expenditures from public due to increased availability of public access. 	<p>walk-in public access programs.</p> <ul style="list-style-type: none"> Long term benefits of walk-in access programs for hunting would not be realized. Current trends of less access for hunting continue. Current walk in access programs continue. Increase in commercialization of hunting for “exclusive hunting rights”.
Socioeconomics	<ul style="list-style-type: none"> Increased recreational opportunities for public. Increased revenue from goods and services and purchases (lodging, meals etc...) into local and rural economies. Increased hunter access which could generate increased license sales and revenue for Department. Private landowners will receive incentive payments for allowing walk-in access. Implementation of program will create value of \$750,000 over a three year period. There would be no impacts to minority or low income populations; therefore, there are no environmental justice concerns. 	<ul style="list-style-type: none"> Fewer access opportunities for public, resulting in less hunting, less revenue for local communities, and fewer hunting license sales. Fewer programs and opportunities for private landowners to receive payments for allowing walk-in access. If not implemented, no additional value created and the long term benefits of walk-in access for hunting would not be realized. No direct negative impacts to local or rural economies would occur. No environmental justice concerns would occur.

Table of Contents

Chapter 1 - PURPOSE and NEED	1-1
1.1 Background	1-1
1.2 Purpose and need for the voluntary access program	1-2
1.3 Objectives of the proposed program	1-2
1.4 Regulatory Compliance	1-3
1.5 Organization of the PEA	1-3
Chapter 2 - ALTERNATIVE ANALYSIS	2-5
2.1 Proposed action alternative	2-5
2.2 No action alternative	2-5
2.3 Resources eliminated from analysis	2-5
2.3.1 Soils	2-6
2.3.2 Water Resources	2-6
2.3.3 Cultural and Tribal Resources	2-6
2.3.4 Air Quality	2-6
2.3.5 Noise	2-6
2.4 Public involvement	2-7
Chapter 3 - AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES	3-8
3.1 Biological Resources	3-9
3.1.1 Affected Environment	3-9
3.1.1.1 Vegetation	3-10
3.1.1.2 Wildlife	3-10
3.1.1.3 T&E Species	3-10
3.1.2 Environmental Consequences	3-10
3.1.2.1 Proposed Action (Preferred Alternative)	3-10
• Vegetation	3-10
• Wildlife	3-12
• T&E Species	3-12
3.1.2.2 No Action	3-12
3.2 Recreation	3-12
3.2.1 Affected Environment	3-13
3.2.2 Environmental Consequences	3-13
3.2.2.1 Proposed Action (Preferred Alternative)	3-13
3.2.2.2 No Action	3-13
3.3 Socioeconomic	3-13
3.3.1 Affected Environment	3-13
3.3.2 Environmental Consequences	3-14
3.3.2.1 Proposed Action (Preferred Alternative)	3-14
3.3.2.2 No Action	3-14

Chapter 4 - CUMULATIVE IMPACTS AND IRREVERSIBLE AND IRRETRIEVEABLE COMMITMENT OF RESOURCES	4-15
4.1 Cumulative Impacts	4-15
4.2 Irreversible and Irretrievable Commitment of Resources	4-15
Chapter 5 - MITIGATION MEASURES	5-16
5.1 Mitigation	5-16
Chapter 6 - LIST OF PREPARERS and AGENCIES CONTACTED	6-18
Chapter 7 – REFERENCES	7-20
APPENDIX A- Sample NEPA CPA-52 Worksheet	A-1
APPENDIX B - Programmatic Agreement with U.S. Fish and Wildlife Service	B-1
APPENDIX C - Programmatic Agreement with State Historic Preservation Officer	C-1
APPENDIX D - U.S. Fish and Wildlife Service Federal Financial Grant Award	D-1

List of Tables

Table 1. FY2009-FY2011 - North Dakota Wetland Reserve Program Interest	1-1
Table 2. North Dakota Game and Fish Department’s Species of Conservation Priority Identified in the Wildlife Action Plan	T-1

(This page intentionally left blank)

Acronyms and Abbreviations

CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CRP	Conservation Reserve Program
CREP	Conservation Reserve Enhancement Program
EA	Environmental Assessment
EO	Executive Order
FSA	Farm Service Agency
GARC	Geographical Area Rate Cap
NEPA	National Environmental Policy Act
NDGFD	North Dakota Game and Fish Department
PEA	Programmatic Environmental Assessment
PLOTS	Private Land Open To Sportsmen
T&E	Threatened and Endangered
U.S.	United States
USDA	U.S. Department of Agriculture
USFWS	U.S. Fish and Wildlife Service
VPA-HIP	Voluntary Public Access and Habitat Incentive Program
WRP	Wetland Reserve Program

(This page intentionally left blank)

Chapter 1 PURPOSE and NEED

1.1 Background

The North Dakota Game and Fish Department (Department) proposes to implement the Voluntary Public Access and Habitat Incentive Program (VPA-HIP). The Department is proposing to use VPA-HIP funds to expand its current Wetland Reserve Program (WRP) Incentive to provide the public with more opportunities for walk-in hunting. The WRP Incentive program is a hunting access program that dovetails with the Natural Resources Conservation Service (NRCS) Wetland Reserve Program (WRP). The WRP Incentive program provides private landowners an opportunity to allow walk-in hunting access in exchange for financial incentives.

This Programmatic Environmental Assessment (PEA) has been prepared by the Farm Service Agency (FSA) and the Department to analyze the potential environmental consequences associated with the proposed action and the no action alternative in accordance with the National Environmental Policy Act (NEPA) (Public Law 91-190, 42 United States Code 4321 et seq.). This analysis is programmatic in nature and does not address individual site-specific impacts, which will be evaluated. As part of the site-specific environmental evaluation, NRCS will consult with the appropriate resource area agency lead, such as the State Historic Preservation Officer, to ensure impacts to protected resources do not occur.

The Department works with private landowners who voluntarily participate in a variety of walk in hunting access and habitat programs such as the Working Lands Program, CRP Access Program, Habitat Plot Program, Food Plot Program, Private Forest Conservation Program, Wetland Reserve Program Incentive and others. The Department currently has over one million acres and 2,500 private landowners enrolled in these hunting access and habitat programs. The Department has about 8,000 acres of WRP enrolled in the WRP Incentive program with a goal of enrolling 20,000 acres. The Department is proposing to implement the VPA-HIP to help reach the goal of 20,000 acres in this program. Interest in WRP has soared the past several years and many of the private landowners have expressed interest in enrolling into the Department's hunting access program, more specifically the WRP Incentive program (Table 1). The Department has a backlog of over 100 landowners interested in the WRP Incentive program.

Table 1. FY2009-FY2011 - North Dakota Wetland Reserve Program Interest			
	FY2009	FY2010	FY2011
Applications	722	568	900
Acres requested	100,000	69,718	125,000
Funding requested	\$77.9M	\$77.3	unknown
Acres enrolled	23,800	20,000	unknown
Funding expended	\$23.9M	\$31.2M	unknown

1.2 Purpose and Need for the Voluntary Access Program

Access to private land for hunting has been identified in the Department's Strategic Plan, Winkleman Consulting Hunting Issues Research: Final Report and various national reports such as the Wildlife Management Institute (WMI) and Association of Fish and Wildlife Agencies (AFWA) Hunting Heritage Action Plan - *Hunter Access Program Assessment Survey Report*, and Responsive Management's *North Dakota Hunting Survey*, and the National Shooting Sports Foundation/Responsive Management's *The Future of Hunting and the Shooting Sports: Research-Based Recruitment and Retention Strategies* as a limiting factor for maintaining the hunting heritage in North Dakota. The Department's Private Lands Initiative (PLI) has three main goals:

1. Conservation of habitats for fish and wildlife populations;
2. Provide landowners interested in wildlife conservation with cost share assistance for developing and protecting habitat; and
3. Provide the public with opportunities to access fish and wildlife resources on private land.

However, the primary goal is habitat development and hunting access. By providing access to private land through the PLI, the Department can fulfill its mission, *"to protect, conserve, and enhance fish and wildlife populations and their habitats for sustained consumptive and nonconsumptive use."*

1.3 Objectives

The Wetland Reserve Program (WRP) is the Nation's premier wetlands restoration program. It is a voluntary program that offers landowners the opportunity to protect, restore, and enhance wetlands on their property. The USDA Natural Resources Conservation Service (NRCS) manages the program, as well as provides technical and financial assistance to landowners who participate in WRP. WRP offers payment, based on the agricultural value, for wetlands and associated uplands that have been degraded or converted to agricultural uses. WRP Pays up to 75 percent reimbursement for restoration costs and allows landowner to retain control of access; public access is not required. The landowner maintains ownership of land and has the right to hunt, fish, trap, and pursue other undeveloped and appropriate recreational uses on the land. The land can be sold but the conservation easement runs with the land. WRP provides additional benefits for the entire community by improving water quality, enhancing habitat wildlife by maintaining or restoring some of the Nation's most threatened resources-wetlands, reducing soil erosion, reducing flooding and improving water supplies.

WRP can be used in North Dakota to secure 10-year restoration cost share agreements, 30-year easements or 30-year contracts with Tribes. The WRP has experienced very high interest the past few years in North Dakota. During that time, approximately 45,000 acres of wetlands and associated upland habitats have been enhanced or restored through WRP. NRCS provides an easement payment based on the agricultural value, for wetlands and associated uplands that have been degraded or converted to agricultural uses. NRCS has developed an established Geographical Area Rate Cap (GARC) for each county in the state. WRP pays 75 percent of the GARC value as well as 75 percent reimbursement for restoration costs. The WRP contract allows the landowner to retain ownership of the land and to retain control of access for

hunting, fishing, trapping, or other undeveloped recreational uses. The North Dakota Game and Fish Department will offer an additional incentive of 15 percent of the total value in exchange for 30-years of walk-in public access for hunting through the Private Land Open To Sportsmen (PLOTS) Program. The objective of the program is to enroll 20,000 acres of WRP into public access agreements for 30 years resulting in 600,000 acre-years of public access to quality wildlife habitat. By providing access to WRP contracts, the Department is essentially banking acres ahead for the future. Nearly 8,000 acres (240,000 acre-years) are already enrolled in the program and \$850,000 of federal Pittman-Robertson funds (\$637,500 federal – 75%, and \$212,500 state – 25%) are currently budgeted for new offers, however, the current budget will only fund approximately 6,500 acres (195,000 acre-years). This leaves a goal shortfall of 5,500 acres. The amount of additional funding through VPA-HIP will help NDGF to reach this goal.

Each parcel of WRP land enrolled in the Conservation PLOTS program will be identified by yellow triangle signs around the boundary. Two signs are used in each corner of the land and a sign is erected every half mile. These signs are mounted on steel posts and are maintained by the Department as part of the agreement with the landowner. Field crews consisting of private land biologists and temporary staff are used each summer/early fall to erect posts and signs on new parcels prior to the fall hunting seasons. The Conservation PLOTS signs are typically posted near NRCS' posts with boundary signage.

The economic impacts of this grant to the rural economy of North Dakota extend beyond the amount being requested through the VPA grant. Payments will be made directly to private landowners; hunters will utilize these parcels of land for up to 30 years, visiting local small towns, motels, gas stations and other establishments. A long term access program like the WRP Incentive program is vital to the hunting heritage of North Dakota and the country.

1.4 Regulatory Compliance

This Programmatic Environmental Assessment (PEA) has been prepared to satisfy the requirements of the National Environmental Policy Act (NEPA) (Public Law 91-190, 42 United States Code 4321 et seq.); implementing regulations adopted by the Council on Environmental Quality (CEQ) (40 Code of Federal Regulations [CFR] 1500-1508); and FSA implementing regulations, Environmental Quality and Related Environmental Concerns – Compliance with NEPA (7 CFR 799). The intent of NEPA is to protect, restore, and enhance the natural and human environment through well-informed Federal decisions. A variety of laws, regulations, and Executive Orders (EOs) apply to actions undertaken by Federal agencies and form the basis of the analysis presented in this PEA.

1.5 Organization of the PEA

This PEA discloses the potential impacts of the proposed action and the no action alternative on affected environmental and economic resources.

- Chapter 1.0 provides background information relevant to the proposed action and discusses the purpose and need for the proposed action.
- Chapter 2.0 describes the proposed action and alternatives.
- Chapter 3.0 describes the affected environment and environmental consequences.

- Chapter 4.0 explains the cumulative impacts and irreversible and irretrievable commitment of resources.
- Chapter 5.0 explains mitigation measures.
- Chapter 6.0 provides a list of preparers and agency contacts.
- Chapter 7.0 contains references used in the PEA.
- Appendix A provides a sample NEPA worksheet.
- Appendix B programmatic agreement with U.S. Fish and Wildlife Service.
- Appendix C programmatic agreement with State Historic Preservation Officer.
- Appendix D U.S. Fish and Wildlife Service Federal Financial Grant Award.
- List of tables.
- Acronyms and Abbreviations.

Chapter 2 ALTERNATIVE ANALYSIS

This chapter describes the proposed action and a no action alternative.

2.1 Proposed Action Alternative (Preferred Alternative)

The proposed action is to implement the VPA-HIP in North Dakota. The Department will offer an additional incentive of 15 percent of the NRCS-developed GARC value of WRP lands in exchange for 30-years of walk-in public access for hunting through the Private Land Open To Sportsmen (PLOTS) Program. Each parcel of WRP land enrolled in the Conservation PLOTS program will be identified by yellow triangle signs around the boundary. Two signs are used in each corner of the land and a sign is erected every half mile. These signs are mounted on steel posts and are maintained by the Department as part of the agreement with the landowner. Field crews consisting of private land biologists and temporary staff are used each summer/early fall to erect posts and signs on new parcels prior to the fall hunting seasons. The Conservation PLOTS signs are typically placed near NRCS' posts with boundary signs. VPA-HIP funds will not be used for any ground disturbing activities; walking access and boundary sign posts are the only activities proposed, therefore, biological resources, recreation and socioeconomic resources will be analyzed in this PEA. Other resources such as soils, water resources, tribal and cultural resources, air quality and noise will not be analyzed in this PEA. Furthermore, the Department has additional NEPA compliance documents currently in place for implementing its public access programs, specifically a programmatic agreement with the US Fish and Wildlife Service (USFWS), a programmatic agreement with the State Historical Preservation Officer (SHPO) and a USFWS categorical exclusion for Pittman-Robertson federal aid funds that cover practices identical to those proposed in this PEA. Additionally, the Department has an EA for its Conservation Reserve Enhancement Program (CREP). These documents are attached as supporting material.

2.2 No Action Alternative

Under the No Action Alternative, the Department will not implement the VPA-HIP in North Dakota. The No Action Alternative does not meet the purpose and need of the Proposed Action, but is being carried forward in accordance with CEQ regulations to serve as the baseline against which potential impacts of the Proposed Action are measured.

2.3 Resources eliminated from analysis

CEQ regulations (40 CFR §1501.7) state that the lead agency shall identify and eliminate from detailed study the issues which are not important or which have been covered by prior environmental review, narrowing the discussion of these issues in the document to a brief presentation of why they would not have a significant effect on the human or natural environment. As described above, the Proposed Action consists of implementing the VPA-HIP through the WRP Incentive program. The Department has used USFWS Pittman-Robertson funds in the past for the WRP Incentive program and prior environmental review NEPA compliance documents are currently in place for implementing the WRP Incentive program, specifically a programmatic agreement with the US Fish and Wildlife Service (USFWS), a programmatic agreement with the State Historical Preservation Officer (SHPO) and a USFWS categorical exclusion for Pittman-Robertson federal aid funds that cover practices identical to

those proposed in this PEA. There are several resource areas that have no potential for environmental impacts and thus, from a programmatic level, the Proposed Action would have little to no impact on the following resource areas:

2.3.1 Soils

No ground disturbing activities will take place on these areas therefore no soil erosion or runoff will result from implementation of this program. Walk-in access may have minor, short term impacts to standing vegetation, however, no long term impacts to the vegetation will occur and no direct impacts, short term or long term, to soils will occur from implementing the Proposed Action.

2.3.2 Water Resources

No ground disturbing activities will take place on these areas, therefore, no water quality issues from soil erosion or runoff will result from implementation of this program. Walk-in access may have minor, short term impacts to standing vegetation around wetlands, however, no long term impacts to the wetlands or vegetation will occur and no direct impacts, short term or long term, to water resources will occur from implementing the Proposed Action.

2.3.3 Cultural and Tribal Resources

The Proposed Action would not directly or indirectly impact any cultural, tribal or historic resources, either architectural or archaeological. No aspect of the Proposed Action would allow for purposeful destruction of any cultural, tribal or historical resources. NRCS conducts site specific EE's prior to the Department enrolling these lands into the WRP Incentive program-walk-in access program. As part of NRCS' site specific EE, consultation with the State Historic Preservation Officer would occur to ensure protection of any nearby cultural, tribal and historical resources. Because landowners enrolled in WRP reserve the rights to control access, activities such as walk in hunting are allowed and considered compatible with WRP and is not considered an extenuating circumstance identified during the site specific EE review, therefore, it can be deduced there will be no impacts to cultural, tribal or historical resources from the Proposed Action being implemented.

2.3.4 Air Quality

A measurable change air quality, particulates, is not anticipated from hunters using these areas. Pollutant emissions from vehicle exhaust and dust from nearby roads may cause a temporary increase in particulate matter; however, this is already occurring along these roads from other rural, farming or local traffic. No significant environmental impacts to air quality are expected by implementing the Proposed Action.

2.3.5 Noise

The Proposed Action would not create any new permanent sources of noise to the environment. Enrolling new lands into the WRP Incentive program may introduce gunfire noise on lands where public hunting has not occurred in the past. This noise would be intermittent and occur during daylight hours during specified hunting seasons. In addition, the minimum tract size required for the program is 80 acres and the Department takes safety issues into

consideration during the enrollment process. These tracts are located in rural areas and the Department makes every effort to make adjacent landowners or neighbors aware of the program. No environmental impacts from noise are expected by implementing the Proposed Action.

2.4 Public Involvement

The Department has had several meetings discussing strategy and planning for use of VPA-HIP funds. There have also been news releases and some media coverage of the announcement of VPA-HIP funds. The Department works with conservation partners such as Ducks Unlimited, Pheasants Forever and others to host landowner workshops for the purpose of educating landowners about conservation programs, hunting and public access programs. VPA-HIP was discussed at several of these workshops in 2009 and 2010 in anticipation of the program. VPA-HIP was also recently discussed at a December 2010 USDA State Technical Committee meeting with no negative comments.

Chapter 3 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES

This chapter provides a description of the existing environmental conditions that have the potential to be affected from implementation of the Proposed Action and the potential environmental impacts that may occur to those resources. Resource areas potentially impacted by the Proposed Action and covered in this PEA include:

- Biological Resources
- Recreation
- Socioeconomics

?

Resource	Proposed Action	No Action
Biological Resources (vegetation, wildlife and T&E species)	<ul style="list-style-type: none"> • Minor, short-term impacts to vegetation from walk-in foot traffic on these areas during peak of hunting season. • Long term hunting access on these areas will benefit public and will not impact vegetation over the long term • Minor, short term impact to vegetation during initial boundary signing efforts from ATV or foot traffic. • Increased hunting opportunities may increase the potential to impact game species. Hunting will be used as an essential management tool to obtain adequate harvest of games species in accordance with state hunting laws and regulations. • Disturbance or incidental take of T&E species by increase hunting. 	<ul style="list-style-type: none"> • Expansion of the WRP Incentive program would not occur and VPA-HIP funding would not be available for walk-in public access programs. • Long term benefits to the public for hunting opportunities from walk-in access programs would not be realized. • Fewer hunting opportunities will result in less harvest of game species. • No disturbance or incidental take of T & E species.
Recreation	<ul style="list-style-type: none"> • Long term beneficial impacts to recreation are expected as a result of increased walk-in access opportunities for public to enjoy wildlife resources. • Increased hunting expenditures from public due 	<ul style="list-style-type: none"> • Expansion of the WRP Incentive program would not occur And VPA-HIP funding would not be available for walk-in public access programs. • Long term benefits of walk-in access programs for hunting

	to increased availability of public access.	<p>would not be realized.</p> <ul style="list-style-type: none"> • Current trends of less access for hunting continue. • Current walk in access programs continue. • Increase in commercialization of hunting for “exclusive hunting rights”.
Socioeconomics	<ul style="list-style-type: none"> • Increased recreational opportunities for public. • Increased revenue from goods and services and purchases (lodging, meals etc...) into local and rural economies. • Increased hunter access which could generate increased license sales and revenue for Department. • Private landowners will receive incentive payments for allowing walk-in access. • Implementation of program will create value of \$750,000 over a three year period. • There would be no impacts to minority or low income populations; therefore, there are no environmental justice concerns. 	<ul style="list-style-type: none"> • Fewer access opportunities for public, resulting in less hunting, less revenue for local communities, and fewer hunting license sales. • Fewer programs and opportunities for private landowners to receive payments for allowing walk-in access. • If not implemented, no additional value created and the long term benefits of walk-in access for hunting would not be realized. • No direct negative impacts to local or rural economies would occur. • No environmental justice concerns would occur.

3.1 Biological Resources

In this PEA, biological resources include vegetation, wildlife, and T&E species. Biological resources are included in this PEA because expanding the public access programs and increasing hunting opportunities may have short term impacts to vegetation during peak of the hunting season and during actual boundary signing. Increased hunting opportunities may increase the potential for impacting game populations.

3.1.1 Affected Environment

The Proposed Action covers the entire state; however, the biological resources discussed in this PEA focus on the environments that may be impacted. A very brief overview of the affected environments is explained in the following sections.

3.1.1.1 Vegetation

Vegetation can be characterized as grassland being the dominant species. Key species include native and introduced species such as prairie junegrass, little bluestem, needle-and-thread, blue grama, green needlegrass, porcupine grass, prairie cordgrass, Northern reedgrass, plains muhly, Western wheatgrass, Kentucky bluegrass, smooth brome, crested wheatgrass, intermediate wheatgrass, tall wheatgrass, big bluestem, pasque flower, torch flower, yarrow, gumweed, golden aster, prairie rose, Missouri milkvetch, purple loco, lead plant, Indian breadroot, purple prairie-clover, gaura, hairy puccoon, harebell, goldenrod, smooth fleabane, perennial ragweed, purple coneflower, upland wormwood, green sage and fringed sage.

3.1.1.2 Wildlife

North Dakota provides refuge to approximately 81 species of mammals, 223 species of breeding birds, 15 species of reptiles, 11 species of amphibians, and 95 species of fish. The Department is responsible for management of these species and has legal authority over all fish and wildlife within the State.

Resident game species include mule deer, pronghorn, bighorn sheep, elk, and moose, wild turkey, sharp-tailed grouse, prairie chickens, Hungarian partridge, pheasants, ruffed grouse, cottontails, and tree squirrels. Hunted migratory birds include mourning doves, snipe, coots, cranes, mergansers, woodcocks, geese, ducks, and swans. Some species of neotropical birds that migrate through North Dakota include bobolinks, lark buntings, grasshopper sparrows, and dickcissels, sedge wrens, red-winged blackbirds, grasshopper sparrows, savannah sparrows, common yellow throats, lark buntings, and Baird's sparrows. Table 2 identifies 100 species of conservation priority that have been identified in the Department's Wildlife Action Plan (WAP) (Table 2).

3.1.1.3 T&E Species

Threatened and Endangered species that are present in North Dakota include whooping crane, black-footed ferret, piping plover, pallid sturgeon, interior least tern, gray wolf, American burying beetle, and western prairie fringed orchid. Sage grouse, Dakota skipper, and Sprague's pipit are listed as candidate species.

3.1.2 Environmental Consequences

Impacts to biological resources would be considered significant if activities resulted in long term environmental impacts to vegetation, negative impacts to game species rose to a level of concern, or there is incidental take of a protected species or its habitat.

3.1.2.1 Proposed Action (Preferred Alternative)

Vegetation

There may be minor, short term impacts to standing vegetation during the peak of the hunting season from walking access foot traffic. Lands enrolled in the WRP Incentive program are required to allow walk in hunting for a period of thirty years. Walk in access for hunting is compatible with WRP as referenced in *Title 440 Wetland Reserve Program Manual 514.62 (A) (1) Compatible Uses*:

WRP lands may be used for compatible economic uses, if such use is permitted by the warranty easement deed or 30-year contract, or authorized under the WRPO or a CUA, if applicable. The warranty easement deed or 30-year contract identifies that certain activities, such as undeveloped hunting and fishing pursuant to State and Federal regulations in effect at the time, is compatible with WRP and thus is a reserved right. Most other activities require site specific evaluation prior to determining whether such activities are compatible.

Because landowners enrolled in WRP reserve the rights to control access, activities such as walk in hunting are allowed and considered compatible with WRP and the activity is not considered an extenuating circumstance identified during the site specific EE reviews that NRCS completes for individual WRP contracts.

In addition to walking access foot traffic from hunting, there may be minor, short term impacts to standing vegetation at the time of actual boundary signing from ATV or foot traffic. Lands enrolled using VPA-HIP funds will have signs and posts placed around the boundary to identify those lands as available for walk in public hunting. *Title 440 Wetland Reserve Program Manual Part 514.44 (d) (5) (IV)* states that NRCS *must comply with NEPA, the Endangered Species Act (ESA), and other applicable Federal requirements*. WRP is implemented according to the new 2008 Act requirements under the Interim Final Rule developed by NRCS. A final Programmatic Environmental Assessment for WRP was completed in January 2009 and evaluated the potential environmental effects of the proposed actions from a broad scale national perspective. In the WRP Programmatic EA, Finding of No Significant Impact Section IV, two alternatives were analyzed and are characterized as follows:

Alternative 1: No Action – No implementation of WRP

Alternative 2: Proposed Alternative (Preferred Alternative) – WRP is implemented according to the new 2008 Act requirements under the Interim Final Rule developed by NRCS.

Although the Proposed Alternative (Alternative 2) in the EA would not have any direct environmental effects, the potential indirect and cumulative environmental effects from application of conservation practices under WRP were also evaluated in general terms and contexts. By following the standard procedures outlined in the 2008 Act requirements, which includes installation of signage, no significant impacts would be realized. Additionally, NRCS prepares documentation of a site-specific environmental evaluation (EE), by completing Form NRCS-CPA-52, for individual WRP contracts to ensure that no extenuating circumstances occur that were not contemplated in the programmatic EA analysis. Copies of site-specific EE (NRCS-CPA-52) records will be requested for each parcel of land enrolled in the PLOTS program.

Placing area markers and witness posts with easement signs is a normal procedure for implementing the program according to the 2008 Act requirements as referenced in *Title 440 Wetland Reserve Program Manual Part 514.33 (b) (3) Procuring the Easement Boundary Survey*:
NRCS will ensure that all easement boundary surveys are completed and digitized according to the NRCS easement programs' land survey specifications provided as an

exhibit in subpart J. NRCS will ensure that all easement area markers and witness posts with easement boundary signs are installed by the time the easement is recorded.

Since placing area markers and witness posts with easement signs is a normal procedure for implementing the program according to the 2008 Act requirements under the Interim Final Rule, it has not been identified in the final EA and is not listed as an extenuating circumstance in the site-specific environmental evaluations, therefore, it is expected there will be no significant environmental impacts from implementing the Proposed Action.

Wildlife

The Department is in charge of managing the state's wildlife resources. Hunting is an essential management tool that is used in wildlife management. The Department conducts wildlife population surveys and censuses and determines populations' sizes and sets population goals an objective for game species. The Department also has an extensive habitat development program to develop and manage wildlife habitat on private and public lands. The Department is also very active in working with state and national leaders to ensure wildlife habitat and conservation is considered in farm bill programs. Based on population surveys, habitat conditions, trends, and public input, the Department determines the appropriate number of licenses to issue for each species in each area of the state. Expanding participation in the WRP Incentive program to increase hunting opportunities would not result in adverse impacts to game species' populations.

T&E Species

Increased hunting opportunities may increase temporary disturbance of some species, but it is not expected to have long term environmental impacts to T&E species. Boundary signing and hunting activities primarily occur outside the breeding and nesting season time frames for many species. Disturbance to habitat for T&E species is also expected to be minimal and is not expected to have long term environmental impacts from implementing the Proposed Action.

3.1.2.2 No Action

Under the No Action alternative, the WRP Incentive program would not be expanded and no additional public access for this program would be secured using VPA-HIP funds. The current public access programs would continue to be available, but the WRP Incentive program would not be expanded to help the Department reach its goal of 20,000 acres enrolled.

3.2 Recreation

Recreation includes those outdoor activities that take place away from the residence of the participant. North Dakota offers a wide variety of recreational opportunities to its residents. Recreational activities that are common in North Dakota include hunting, fishing, wildlife viewing, camping, golfing, boating, skiing, hiking, and biking. According to the U.S. Fish and Wildlife 2006 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation. Non-resident and resident hunters totaled 128,000 individuals in the 2006 survey. The participation rate of resident hunters in North Dakota is 17 percent. Hunting-related expenditures amounted

to \$130 million of revenue for the State of North Dakota. For the purpose of this PEA, recreation focuses on hunting opportunities.

3.2.1 Affected Environment

Because the land that could be enrolled in the WRP Incentive program is privately held, access to this land for recreational activities is presently controlled by landowners. However, there is public land available for recreation across the state such as North Dakota Game and Fish Department Wildlife Management Areas (WMAs), U.S. Fish and Wildlife Service Waterfowl Production Areas (WPAs) and National Wildlife Refuges (NWRs), North Dakota Game and Fish Department Conservation PLOTS (Private Land Open To Sportsmen) program acres, State Land Department School Trust lands, and others. Public land provides recreational activities such as hunting, hiking, camping, fishing, biking, and backpacking. Hunting and fishing require State-issued licenses for both public and private land.

3.2.2 Environmental Consequences

Impacts to recreation would be considered significant if they drastically reduced, increased, or removed available public or private lands designated for recreation or significantly degraded the quality of the recreation.

3.2.2.1 Proposed Action (Preferred Alternative)

Implementation of the Proposed Action will have long term beneficial impacts to recreation, for up to 30 years. Lands that may have been closed to hunting, or limited to family or friends will now be made available to the public for a period of up to 30 years. Lands enrolled will be identified with boundary signs as well as in an annual Conservation PLOTS Guide atlas, available free to the public. The increased availability of public access may increase hunting expenditures and improve local socioeconomic issues.

3.2.2.2 No Action

Under the No Action alternative, the WRP Incentive program would not be expanded and no additional public access for this program would be secured using VPA-HIP funds. The current public access programs would continue to be available, but the WRP Incentive program would not be expanded to help the Department reach its goal of 20,000 acres enrolled.

3.3 Socioeconomics

Socioeconomic analyses generally include investigations of population, income, employment, and housing conditions of a specific area. Socioeconomic issues that are significant and considered in detail in this analysis are revenue for local and economies, landowner payments/income and recreation spending.

3.3.1 Affected Environment

North Dakota's population is 646,844 according to the U.S. Census Bureau 2009 estimate. The State of North Dakota's population is predominantly white (91.1%), followed by American Indian and Alaska Native persons (5.6%). North Dakota has approximately 30,000 family farms and ranches. The average North Dakota farm is 1,300 acres. Nearly 24 percent of North

Dakota's people are employed directly by production agriculture or in agriculture-related industries. More than 39 million acres is in farms and ranches.

3.3.2 Environmental Consequences

Impacts to socioeconomics would be considered significant if they drastically reduced or increased landowner income or revenue from goods and services and other hunting related expenditures.

3.3.2.1 Proposed Action (Preferred Alternative)

Lands enrolled in this program will increase recreational opportunities for the hunting public. There is a potential for slight increased revenue into local and rural economies due to hunters travelling to these areas; spending money in local motels, gas stations, cafes and establishments. Lands enrolled in this program will be available to the public for thirty years, expanding these benefits even further. Private landowners will also benefit by receiving payments for allowing public access. Increased hunting access may increase license sales and revenue for the Department, increasing its ability to effectively manage the state's fish and wildlife population.

3.3.2.2 No Action

Under the No Action alternative, the WRP Incentive program would not be expanded and no additional public access for this program would be secured using VPA-HIP funds. The current public access programs would continue to be available, but the WRP Incentive program would not be expanded to help the Department reach its goal of 20,000 acres enrolled. There would be no improvements to local socioeconomic issues and the long term benefits of a walk in access program would not be realized. Current trends of fewer access opportunities would result in less hunting, resulting in less revenue from goods and services in local communities and fewer expenditures and license sales for the Department.

Chapter 4 CUMULATIVE IMPACTS AND IRREVERSIBLE AND IRRETRIEVEABLE COMMITMENT OF RESOURCES

4.1 Cumulative Impacts

As defined by CEQ regulations:

“Cumulative impact is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (‘Federal or non-Federal’) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” (40 CFR 30 part 1508.7, 2004)

In this PEA, the affected environment for cumulative impacts includes all of the State of North Dakota since the WRP Incentive program is available statewide; therefore, the proposed walk in access projects could occur anywhere in the state on private land. In addition to VPA-HIP, several other Federal and state programs in North Dakota focus on conservation. Federal programs include the Conservation Reserve Program, Grassland Reserve Program, Wildlife Habitat Incentives Program, Environmental Quality Incentives Program, and the Wetlands Reserve Program. State programs include other Department private land access programs such as the CRP Access Program, Habitat Plot Program, Working Lands Program, Food Plot Program, and Private Forest Conservation Program.

When considered in combination with other past, present, and reasonably foreseeable future actions, the incremental impact of the Proposed Action is expected to result in net positive impacts to biological and recreational resources. No negative cumulative impacts to any other resources are expected.

4.2 Irreversible and Irretrievable Commitment of Resources

As required by NEPA, any irreversible and irretrievable commitments of resources that would be involved in the Proposed Action should it be implemented must be identified in the EA. Irreversible and irretrievable resource commitments are related to the use of non-renewable resources and the effect that this use may have on future generations. Irreversible commitments are those that consume a specific resource that is renewable only over a long time period. Irretrievable commitments are those that consume a specific resource that is neither renewable nor recoverable for use by future generations. No irreversible or irretrievable resource commitments are expected from implementation of the Proposed Action.

Chapter 5 MITIGATION MEASURES

5.1 Mitigation

The purpose of mitigation is to avoid, minimize, or eliminate significant negative impacts on affected resources. There are no expected long-term, significant negative impacts associated with implementation of the Proposed Action in North Dakota.

(This page intentionally left blank)

Chapter 6 LIST OF PREPARERS and AGENCIES CONTACTED

- Kevin Kading, North Dakota Game and Fish Department (Preparer)
- Matthew T. Ponish, National Environmental Compliance Manager, United States Department of Agriculture, Farm Service Agency, Washington, DC
- Natural Resources Conservation Service, North Dakota State Office

(This page intentionally left blank)

Chapter 7 REFERENCES

- North Dakota Game and Fish Department. *Strategic Vision-2005-2010*. 2005. Internal document. 16 pp.
- Programmatic agreement. 2001. USFWS, North Dakota Game and Fish Department, and North Dakota State Historical Preservation Officer.
- Programmatic agreement. 2008. USFWS-Ecological Services Office, North Dakota Game and Fish Department.
- Responsive Management-Prepared for the North Dakota Game and Fish Department. 2008. *North Dakota Hunting Survey*. 246 pp.
- Responsive Management-Prepared for the Theodore Roosevelt Conservation Partnership. 2004. *Issues Related to Hunting and Fishing Access*. 115 pp.
- Responsive Management and National Shooting Sports Foundation. 2008. *The Future of Hunting and the Shooting Sports: Research-Based Recruitment and Retention Strategies*. Produced for the U.S. Fish and Wildlife Service under Grant Agreement CT-M-6-0. Harrisonburg, VA.
- U.S. Department of Agriculture Farm Service Agency. 2005. Programmatic Environmental Assessment for Implementation of the Conservation Reserve Enhancement Program Agreement for North Dakota.
- U.S. Department of Agriculture Natural Resources Conservation Service. 2008. Finding of No Significant Impact for the Programmatic Environmental Assessment (PEA) on the Interim Final Rule for the Wetland Reserve Program (WRP).
- U.S. Department of Agriculture Natural Resources Conservation Service. January 2009. Wetland Reserve Program, Final Environmental Assessment.
- U.S. Department of Agriculture Natural Resources Conservation Service. December 2010. Manuals. Title 440 Programs, Part 514 Wetland Reserve Program.
- U.S. Department of the Interior, Fish and Wildlife Service, and U.S. Department of Commerce, U.S. Census Bureau. 2006 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation.
- U.S. Fish and Wildlife Service. *Application for Federal Assistance. #W-91-L. Private Land Open To Sportsmen (PLOTS) public hunting access program*. 2008. Program Narrative.

Wildlife Management Institute (WMI) and Association of Fish and Wildlife Agencies (AFWA).
2009. Hunting Heritage Action Plan - *Hunter Access Program Assessment Survey Report*.
<http://huntingheritage.org/>

Winkleman Consulting. 2003. *Hunting Issues Research Final Report: Resident Hunters, Nonresident Hunters, North Dakota Landowners, Guides & Other Economic Interests*.
Produced for the North Dakota Game and Fish Department. 186 pp.

(This page intentionally left blank)

Level I	
Horned Grebe	<i>Podiceps auritus</i>
American White Pelican	<i>Pelecanus erythrorhynchos</i>
American Bittern	<i>Botaurus lentiginosus</i>
Swainson's Hawk	<i>Buteo swainsoni</i>
Ferruginous Hawk	<i>Buteo regalis</i>
Yellow Rail	<i>Coturnicops noveboracensis</i>
Willet	<i>Catoptrophorus semipalmatus</i>
Upland Sandpiper	<i>Bartramia longicauda</i>
Long-billed Curlew	<i>Numenius americanus</i>
Marbled Godwit	<i>Limosa fedoa</i>
Wilson's Phalarope	<i>Phalaropus tricolor</i>
Franklin's Gull	<i>Larus pipixcan</i>
Black Tern	<i>Chlidonias niger</i>
Black-billed Cuckoo	<i>Coccyzus erythrophthalmus</i>
Sprague's Pipit	<i>Anthus spragueii</i>
Grasshopper Sparrow	<i>Ammodramus savannarum</i>
Baird's Sparrow	<i>Ammodramus bairdii</i>
Nelson's Sharp-tailed Sparrow	<i>Ammodramus nelsonii</i>
Lark Bunting	<i>Calamospiza melanocorys</i>
Chestnut-collared Longspur	<i>Calcarius ornatus</i>
Canadian Toad	<i>Bufo hemiophrys</i>
Plains Spadefoot	<i>Spea bombifrons</i>
Smooth Green Snake	<i>Liophorophis vernalis</i>
Western Hognose Snake	<i>Heterodon nasicus</i>
Black-tailed Prairie Dog	<i>Cynomys ludovicianus</i>
Sturgeon Chub	<i>Macrhybopsis gelida</i>
Sicklefin Chub	<i>Macrhybopsis meeki</i>
Pearl Dace	<i>Margariscus margarita</i>
Blue Sucker	<i>Cycleptus elongatus</i>

Level II	
Northern Pintail	<i>Anas acuta</i>
Canvasback	<i>Aythya valisineria</i>
Redhead	<i>Aythya americana</i>
Northern Harrier	<i>Circus cyaneus</i>
Golden Eagle	<i>Aquila chrysaetos</i>
Bald Eagle	<i>Haliaeetus leucocephalus</i>
Prairie Falcon	<i>Falco mexicanus</i>
Sharp-tailed Grouse	<i>Tympanuchus phasianellus</i>
Greater Prairie-Chicken	<i>Tympanuchus cupido</i>
Greater Sage-Grouse	<i>Centrocercus urophasianus</i>
Piping Plover	<i>Charadrius melodus</i>
American Avocet	<i>Recurvirostra americana</i>
Least Tern	<i>Sterna antillarum</i>
Short-eared Owl	<i>Asio flammeus</i>
Burrowing Owl	<i>Athene cunicularia</i>
Red-headed Woodpecker	<i>Melanerpes erythrocephalus</i>
Loggerhead Shrike	<i>Lanius ludovicianus</i>
Sedge Wren	<i>Cistothorus platensis</i>
Dickcissel	<i>Spiza americana</i>
Le Conte's Sparrow	<i>Ammodramus leconteii</i>
Bobolink	<i>Dolichonyx oryzivorus</i>
Common Snapping Turtle	<i>Chelydra serpentina</i>
Short-horned Lizard	<i>Phrynosoma douglassi</i>
Northern Redbelly Snake	<i>Storeria occipitomaculata</i>
Pygmy Shrew	<i>Sorex hoyi</i>
Richardson's Ground Squirrel	<i>Spermophilus richardsonii</i>
Swift Fox	<i>Vulpes velox</i>
River Otter	<i>Lutra canadensis</i>
Black-footed Ferret	<i>Mustela nigripes</i>
Paddlefish	<i>Polyodon spathula</i>
Pallid Sturgeon	<i>Scaphirhynchus albus</i>
Silver Chub	<i>Macrhybopsis storeriana</i>
Northern Redbelly Dace	<i>Phoxinus eos</i>
Flathead Chub	<i>Platygobio gracilis</i>
Trout-perch	<i>Percopsis omiscomaycus</i>
Threeridge	<i>Amblema plicata</i>
Wabash Pigtoe	<i>Fusconaia flava</i>
Mapleleaf	<i>Quadrula quadrula</i>
Black Sandshell	<i>Ligumia recta</i>
Creek Heelsplitter	<i>Lasmigona compressa</i>
Pink Heelsplitter	<i>Potamilus alatus</i>

Level III	
Whooping Crane	<i>Grus americana</i>
Peregrine Falcon	<i>Falco peregrinus</i>
Brewer's Sparrow	<i>Spizella breweri</i>
McCown's Longspur	<i>Calcarius mccownii</i>
Smooth Softshell Turtle	<i>Apalone mutica</i>
False Map Turtle	<i>Graptemys pseudogeographica</i>
Northern Prairie Skink	<i>Eumeces septentrionalis</i>
Northern Sagebrush Lizard	<i>Sceloporus graciosus</i>
Arctic Shrew	<i>Sorex arcticus</i>
Western Small-footed Myotis	<i>Myotis ciliolabrum</i>
Long-eared Myotis	<i>Myotis evotis</i>
Long-legged Myotis	<i>Myotis volans</i>
Plains Pocket Mouse	<i>Perognathus flavescens</i>
Hispid Pocket Mouse	<i>Chaetodipus hispidus</i>
Sagebrush Vole	<i>Lemmys curtatus</i>
Eastern Spotted Skunk	<i>Spilogale putoris</i>
Gray Wolf	<i>Canis lupis</i>
Chestnut Lamprey	<i>Ichthyomyzon castaneus</i>
Silver Lamprey	<i>Ichthyomyzon unicuspis</i>
Central Stoneroller	<i>Camptostoma anomalum</i>
Hornyhead Chub	<i>Nocomis biguttatus</i>
Pugnose Shiner	<i>Notropis anogenus</i>
Blacknose Shiner	<i>Notropis heterolepis</i>
Rosyface Shiner	<i>Notropis rubellus</i>
Finescale Dace	<i>Phoxinus neogaeus</i>
Yellow Bullhead	<i>Ameiurus natalis</i>
Flathead Catfish	<i>Pylodictis olivaris</i>
Logperch	<i>Percina caprodes</i>
River Darter	<i>Percina shumardi</i>
Pink Papershell	<i>Potamilus ohioensis</i>

Table 2. North Dakota Game and Fish Department's Species of Conservation Priority Identified in the Wildlife Action Plan.

(This page intentionally left blank)

APPENDIX A – SAMPLE NEPA WORKSHEET

U.S. Department of Agriculture Natural Resources Conservation Service NRC 8-CPA-62 6-18-2010		A. Client Name:	
ENVIRONMENTAL EVALUATION WORKSHEET		B. Conservation Plan ID # (as applicable): Program Authority (optional): Wetland Reserve Program	
D. Client's Objective(s) (purpose): Cease agriculture-related production activities in and around selected wetland sites for the purpose of restoring wetland function and values and to promote habitat for wetland associated wildlife consistent with the EWP program.		C. Identification # (farm, tract, field #, etc as required):	
E. Need for Action: Restore wetlands and associated uplands to existing conditions prior to agricultural conversion activities.	G. Alternatives		
	No Action ✓ if RMS <input type="checkbox"/>	Alternative 1 ✓ if RMS <input type="checkbox"/>	Alternative 2 ✓ if RMS <input type="checkbox"/>
	Continue production agricultural activities in and around wetland sites.	Restore wetlands and uplands using Wetland Restoration (857), Conservation Cover (327), Pest Management (596), Upland Wildlife Habitat Management (845) and Wetland Wildlife Habitat	
Resource Concerns			
In Section "F" below, analyze, record, and address concerns identified through the Resources Inventory process. (See FOTG Section III - Resource Quality Criteria for guidance).			
F. Resource Concerns and Existing / Benchmark Conditions (Analyze and record the existing/benchmark conditions for each identified concern)	H. Effects of Alternatives		
	No Action	Alternative 1	Alternative 2
	Amount, Status, Description (short and long term)	Amount, Status, Description (short and long term)	Amount, Status, Description (short and long term)
	✓ if does NOT meet QC	✓ if does NOT meet QC	✓ if does NOT meet QC
SOIL			
Condition (Organic Matter) Organic matter at low levels	Continue production of agricultural activities in and around wetland sites.	Perennial vegetation will improve soil health and increase organic matter.	
	NOT meet <input checked="" type="checkbox"/> QC	NOT meet <input type="checkbox"/> QC	NOT meet <input type="checkbox"/> QC
Erosion (Sheet and Rill) Soil erosion is evident every spring.	Continue production of agricultural activities in and around wetland sites.	Perennial vegetation will keep excess runoff from leaving the field.	
	NOT meet <input checked="" type="checkbox"/> QC	NOT meet <input type="checkbox"/> QC	NOT meet <input type="checkbox"/> QC
	NOT meet <input type="checkbox"/> QC	NOT meet <input type="checkbox"/> QC	NOT meet <input type="checkbox"/> QC
WATER			
Quantity (Excessive Runoff, Flooding, or Ponding) Current system allows excessive runoff during high precipitation.	Annual low residue crop management system allows excess water runoff from the field.	Native perennial vegetation will keep excess runoff from leaving the fields and entering into streams.	
	NOT meet <input checked="" type="checkbox"/> QC	NOT meet <input type="checkbox"/> QC	NOT meet <input type="checkbox"/> QC
	NOT meet <input type="checkbox"/> QC	NOT meet <input type="checkbox"/> QC	NOT meet <input type="checkbox"/> QC
	NOT meet <input type="checkbox"/> QC	NOT meet <input type="checkbox"/> QC	NOT meet <input type="checkbox"/> QC

F. Resource Concerns and Existing / Benchmark Conditions (Analyze and record the existing/benchmark conditions for each identified concern)	H. (continued)		Alternative 1		Alternative 2	
	No Action	✓ if does NOT meet QC	Amount, Status, Description (short and long term)	✓ if does NOT meet QC	Amount, Status, Description (short and long term)	✓ if does NOT meet QC
AIR						
No resource concern identified	Current management has no impact on air quality.	NOT meet <input type="checkbox"/> QC	Proposed management will have no impact on air quality.	NOT meet <input type="checkbox"/> QC		NOT meet <input type="checkbox"/> QC
		NOT meet <input type="checkbox"/> QC		NOT meet <input type="checkbox"/> QC		NOT meet <input type="checkbox"/> QC
		NOT meet <input type="checkbox"/> QC		NOT meet <input type="checkbox"/> QC		NOT meet <input type="checkbox"/> QC
PLANTS						
Condition (Productivity, Health, and/or Vigor) Plant productivity is at lower levels.	Annual nutrient inputs has slowly diminished annual crop productivity.	NOT meet <input checked="" type="checkbox"/> QC	Increase wildlife habitat and forage production between 2000-4000 pounds per acre.	NOT meet <input type="checkbox"/> QC		NOT meet <input type="checkbox"/> QC
Adaptability (Plants Not Adapted or Suited to Site) Continuation of monoculture species has steadily produced low forage production levels.	Annual production of low residue monoculture crops is slowly decreasing crop yield.	NOT meet <input checked="" type="checkbox"/> QC	Increase wildlife habitat and forage production between 2000-4000 pounds per acre.	NOT meet <input type="checkbox"/> QC		NOT meet <input type="checkbox"/> QC
		NOT meet <input type="checkbox"/> QC		NOT meet <input type="checkbox"/> QC		NOT meet <input type="checkbox"/> QC
ANIMALS						
Fish and wildlife (Inadequate Cover/Shelter)	Annual crop production does not provide adequate shelter and cover for wildlife.	NOT meet <input checked="" type="checkbox"/> QC	Perennial vegetation will support a wider range of animal species.	NOT meet <input type="checkbox"/> QC		NOT meet <input type="checkbox"/> QC
Fish and wildlife (Inadequate Food)	Annual monoculture of low residue crops does not provide adequate forage.	NOT meet <input checked="" type="checkbox"/> QC	Perennial vegetation will accommodate a wider range of animal species and greater amounts of forage.	NOT meet <input type="checkbox"/> QC		NOT meet <input type="checkbox"/> QC
		NOT meet <input type="checkbox"/> QC		NOT meet <input type="checkbox"/> QC		NOT meet <input type="checkbox"/> QC
HUMAN - Economic and Social Considerations						
Profitability	Dependence on cropping carries annual risk.		WRP contract provides predictable income.			
Management Level	Management intensity for annual cropping remains the same.		When practice is installed management level is reduced to O&M.			
Profitability Reduced profits trying to crop these areas.	No change.		Change of management will improve profitability on remaining acres.			

Special Environmental Concerns: Environmental Laws, Executive Orders, policies, etc.					
In Section "I" complete and attach applicable Environmental Procedures Guide Sheets for documentation. Items with a "*" may require a federal permit or consultation/coordination between the lead agency and another government agency. In these cases, effects may need to be determined in consultation with another agency. Planning and practice implementation may not proceed for practices not involved in consultation.)					
I. Special Environmental Concerns (Document compliance with Environmental Laws, Executive Orders, policies, etc.)	J. Impacts to Special Environmental Concerns				
	No Action		Alternative 1		Alternative 2
	Status and progress of compliance. (Complete and attach Guide Sheets as applicable)	✓ if needs further action	Status and progress of compliance. (Complete and attach Guide Sheets as applicable)	✓ if needs further action	Status and progress of compliance. (Complete and attach Guide Sheets as applicable)
•Clean Air Act ND currently has no identified non-attainment areas.	Upon Review, No Effect Consider the impacts of the current mgmt on Air Quality.	<input type="checkbox"/>	Upon Review, No Effect Burning, construction or tillage operations could impact Air Quality.	<input type="checkbox"/>	
•Clean Water Act /Waters of the U.S. USGS topo maps, ND 2010 Integrated Report for Surface Water Quality. Identify kind	Upon Review, No Action Needed Field Office Needs to Complete.	<input checked="" type="checkbox"/>	Other Field Office Needs to Complete.	<input type="checkbox"/>	
•Coastal Zone Management Resource not present in ND.	Upon Review, Not Applicable Resource is not present in ND	<input type="checkbox"/>	Upon Review, Not Applicable Resource is not present in ND	<input type="checkbox"/>	
•Coral Reefs Resource not present in ND.	Upon Review, Not Applicable Resource is not present in ND	<input type="checkbox"/>	Upon Review, Not Applicable Resource is not present in ND	<input type="checkbox"/>	
•Cultural Resources / Historic Properties ND FOTG Section II subpart D	Upon Review, No Action Needed	<input checked="" type="checkbox"/>	See Attached Documentation Field Office needs to complete if practice is an undertaking.	<input type="checkbox"/>	
•Endangered and Threatened Species ND FOTG Section II subpart E	Upon Review, Not Present	<input checked="" type="checkbox"/>	Upon Review, Not Present	<input type="checkbox"/>	
Environmental Justice National Environmental Compliance Handbook	Upon Review, No Effect Percent of the population that are low income, minority, or belong to	<input type="checkbox"/>	Upon Review, No Effect No identified low income, minority or Indian populations in the	<input type="checkbox"/>	
•Essential Fish Habitat Resource not present in ND.	Upon Review, Not Applicable Resource not present in ND.	<input type="checkbox"/>	Upon Review, Not Applicable Resource not present in ND.	<input type="checkbox"/>	
Floodplain Management Visual Observation of presence or absence, Soil Survey, FEMA, or USGS maps. Quantify acres.	Upon Review, No Effect Presence of flooded lands may exist	<input checked="" type="checkbox"/>	Other Planned vegetation will help maintain floodplain and wetlands from deterioration	<input type="checkbox"/>	
Invasive Species Conservation plan with Pest management.	Upon Review, No Effect Continued cropping may increase risk of invasive sp.	<input checked="" type="checkbox"/>	Upon Review, No Effect 595 reduces risk of invasive species.	<input type="checkbox"/>	
•Migratory Birds/Bald and Golden Eagle Protection Act Migratory birds and eagles are known to occur everywhere in ND.	Upon Review, No Effect Cropland will continue to be incidentally used by migratory birds.	<input checked="" type="checkbox"/>	Upon Review, No Effect Provide grassland/wetland nesting, brood and staging habitats for migratory birds	<input type="checkbox"/>	
Prime and Unique Farmlands http://soildatamart.nrcs.usda.gov/	Upon Review, Not Present	<input type="checkbox"/>	Upon Review, Not Present	<input type="checkbox"/>	
Riparian Area Visual observation of riparian area presence or absence and	Upon Review, No Effect Continued farming may deteriorate water quality	<input checked="" type="checkbox"/>	Upon Review, No Effect Restored floodplain increases water quality benefits.	<input type="checkbox"/>	
•Wetlands NRCS wetland inventory, NWI maps, USGS quad maps county soil survey, aerial photography have been used to determine the	Upon Review, No Effect Wetlands will continue to be impaired by drainage, sediment, and cropping.	<input checked="" type="checkbox"/>	Upon Review, No Effect Restored acres provide wildlife habitat and other functions. Conservation Plan identifies restoration techniques.	<input type="checkbox"/>	
•Wild and Scenic Rivers http://missouriverfutures.com/	Upon Review, Not Applicable	<input type="checkbox"/>	Upon Review, Not Applicable	<input type="checkbox"/>	
K. Other Agencies and Broad Public Concerns	No Action		Alternative 1		Alternative 2
Easements, Permissions, Public Review, or Permits Required and Agencies Consulted.	None required		Easement process evaluates existing USFWS and other easements. Projects involving restoration of greater than 12.5 ac of storage require NDSWC permit. USACOE 404 permits will be acquired if necessary. Other permits as necessary.		
State technical committee					

K. (continued) Other Agencies and Broad Public Concerns		No Action	Alternative 1	Alternative 2
Cumulative Effects Narrative (Describe the cumulative impacts considered, including past, present and known future actions regardless of who performed the actions)		Past - Tall grass prairie; Present - Drained wetlands, soil erosion, flooding; Future - Tall or mixed grass prairie.	Establish native perennial vegetation. See grass data worksheet.	
L. Mitigation		None required	Mitigation on WRP lands is not permitted.	
M. Preferred Alternative	✓ preferred alternative	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Supporting reason		Perennial vegetation meets or exceeds treatment level required for the sustainability of identified resource concerns.	
N. Context (Record context of alternatives analysis)		Local/Site specific	Watershed	local
The significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality.				
O. Determination of Significance or Extraordinary Circumstances				
<p>Intensity: Refers to the severity of impact. Impacts may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.</p> <p>If you answer ANY of the below questions "yes" then contact the State Environmental Liaison as there may be extraordinary circumstances and significance issues to consider and a site specific NEPA analysis may be required.</p>				
Yes	No			
<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Is the preferred alternative expected to cause significant effects on public health or safety?		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Is the preferred alternative expected to significantly effect unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas?		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Are the effects of the preferred alternative on the quality of the human environment likely to be highly controversial?		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Does the preferred alternative have highly uncertain effects or involve unique or unknown risks on the human environment?		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Does the preferred alternative establish a precedent for future actions with significant impacts or represent a decision in principle about a future consideration?		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Is the preferred alternative known or reasonably expected to have potentially significant environment impacts to the quality of the human environment either individually or cumulatively over time?		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Will the preferred alternative likely have a significant adverse effect on ANY of the special environmental concerns? Use the Evaluation Procedure Guide Sheets to assist in this determination. This includes, but is not limited to, concerns such as cultural or historical resources, endangered and threatened species, environmental justice, wetlands, floodplains, coastal zones, coral reefs, essential fish habitat, wild and scenic rivers, clean air, riparian areas, natural areas, and invasive species.		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	• Will the preferred alternative threaten a violation of Federal, State, or local law or requirements for the protection of the environment?		
P. The information recorded above is based on the best available information:				
In the case where a non-NRCS person (i.e. a TSP) assists with planning they are to sign the first signature block and then NRCS is to sign the second block as the responsible federal agency for the planning action.				
Signature (TSP if applicable)		Title	Date	
Signature (NRCS)		Title	Date	
			9/23/2010	

The following sections are to be completed by the Responsible Federal Official (RFO)		
Q. NEPA Compliance Finding (check one)		
The preferred alternative:		Action required
<input type="checkbox"/>	1) is not a federal action where the agency has control or responsibility.	Document in "R.1" below. No additional analysis is required
<input checked="" type="checkbox"/>	2) is a federal action that is categorically excluded from further environmental analysis <u>and</u> there are no <u>extraordinary circumstances</u> .	Document in "R.2" below. No additional analysis is required
<input type="checkbox"/>	3) is a federal action that has been sufficiently analyzed in an existing Agency state, regional, or national NEPA document and there are no predicted <u>significant adverse environmental effects</u> or <u>extraordinary circumstances</u> .	Document in "R.1" below. No additional analysis is required.
<input type="checkbox"/>	4) is a federal action that has been sufficiently analyzed in another Federal agency's NEPA document (EA or EIS) that addresses the proposed NRCS action and its' effects and has been formally adopted by NRCS . NRCS is required to prepare and publish the agency's own Finding of No Significant Impact for an EA or Record of Decision for an EIS when adopting another agency's EA or EIS document. Note: This box is not applicable to FSA.	Contact the State Environmental Liaison for list of NEPA documents formally adopted and available for tiering. Document in "R.1" below. No additional analysis is required
<input type="checkbox"/>	5) is a federal action that has NOT been sufficiently analyzed or may involve predicted significant adverse environmental effects or extraordinary circumstances and may require an EA or EIS.	Contact the State Environmental Liaison. Further NEPA analysis is required.
R. Rationale Supporting the Finding		
R.1 Findings Documentation		
R.2 Applicable Categorical Exclusion(s) (more than one may apply)	<p>(11) Restoring an ecosystem, fish and wildlife habitat, biotic community, or population of living resources to a determinable pre-impact condition;</p> <p>(20) Implementing soil control measures on existing agricultural lands, such as grade stabilization structures (pipe drops), sediment basins, terraces, grassed waterways, filter strips, riparian forest buffer, and critical area planting; and</p> <p>(21) Implementing water conservation activities on existing agricultural lands, such as minor irrigation land leveling, irrigation water conveyance (pipelines), irrigation water control structures, and various management practices.</p>	
I have considered the effects of the alternatives on the Resource Concerns, Economic and Social Considerations, Special Environmental Concerns, and Extraordinary Circumstances as defined by Agency regulation and policy.		
S. Signature of Responsible Federal Official:		
<div style="border: 1px solid black; height: 30px; width: 100%;"></div>	<div style="border: 1px solid black; height: 30px; width: 100%;"></div>	<div style="border: 1px solid black; height: 30px; width: 100%; text-align: center;">9/23/2010</div>
Signature	Title	Date
Additional notes		

APPENDIX B – PROGRAMMATIC AGREEMENT WITH U.S. FISH AND WILDLIFE SERVICE.

Programmatic Agreement
between
North Dakota Game and Fish Department (Department),
Department of Interior, U.S. Fish and Wildlife Service (Service) Ecological Services
(ES) North Dakota Field Office
for
Proposed Habitat Management Practices and Activities on Public and Private Lands

- I. The Department proposes to conduct habitat management practices and activities on public and private lands under the Service's grant programs including State Wildlife Grants (SWG), Landowner Incentive Programs (LIP) and Wildlife & Sport Fish Restoration Programs. Funds from these grants will be used to benefit species at risk, including federally listed or proposed threatened and endangered species. The Department expects that habitat management practices and activities on areas where these funds will be used will result in positive impacts on species of concern. The Department will take all necessary precautions to avoid negative impacts to listed species, and will reinstate coordination with the North Dakota ES Field Office if practices and activities cannot be modified to avoid negative impacts. The following guidelines for project practices will be followed by the Department to avoid negative impacts or potential negative impacts to these species.
- II. The following individuals have reviewed these habitat management practices and activities. Each individual is familiar with the North Dakota Wildlife Action Plan Species of Conservation Priority and federal threatened, endangered and candidate species and designated critical habitat.

Kevin Kading
North Dakota Game and Fish
Private Lands Section Leader
100 North Bismarck Expressway
Bismarck, ND 58501-5095
Phone: 701-328-6371
Email: kkading@nd.gov

Steve Dyke
North Dakota Game and Fish
Conservation Supervisor
100 North Bismarck Expressway
Bismarck, ND 58501-5095
Phone: 701-328-6347
Email: sdvke@nd.gov

Patrick Isakson
North Dakota Game and Fish
Nongame Biologist
100 North Bismarck Expressway
Bismarck, ND 58501-5095
Phone: 701-328-6338
Email: pisakson@nd.gov

Sandra Johnson
North Dakota Game and Fish
Nongame Biologist
100 North Bismarck Expressway
Bismarck, ND 58501-5095
Phone: 701-328-6382
Email: sajohnson@nd.gov

Programmatic Agreement
between
North Dakota Game and Fish Department (Department),
Department of Interior, U.S. Fish and Wildlife Service (Service) Ecological Services
(ES) North Dakota Field Office
for
Proposed Habitat Management Practices and Activities on Public and Private Lands

- III. The following list of habitat management practices and activities have been reviewed on a programmatic basis and can be conducted for habitat management projects designed by the Department WITHOUT REQUIRING REVIEW BY THE DEPARTMENT OR NORTH DAKOTA ES FIELD OFFICE on a project-by-project basis. Projects will be conducted to avoid negative impacts to federally listed or proposed species. The USFWS-North Dakota Ecological Services Field Office has reviewed these practices and activities under the authority of and in accordance with the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.) and the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.).

Habitat Management Practices and Activities

- A) Buildings – Operation, maintenance and repair of existing facilities.
- B) Dams and Dikes – Repair and maintenance of existing small dams and dikes where activities are confined to previously disturbed areas.
- C) Bridges, Culverts and Low Water Crossings – Repair, replacement and maintenance of existing structures.
- D) Roads and Trails – Graveling, installing vehicle gates, and mowing on and within existing road and trail rights-of-way.
- E) Fences – Construction of new boundary or interior fences, including installation of gates and repair and maintenance of existing fences. Includes, smooth wire, barbed wire and electric wire fences with wooden corner posts, H-braces and steel posts.
- F) Public Use Facilities – Operation, replacement, repair, and maintenance of existing blinds, parking lots, security lights, boat docks, boat ramps, drinking water wells, toilets, and fishing piers. Repairs may include gravel placement, mowing, signing and fencing.
- G) Lake and Stream Improvements – Stream clearance of fallen timber and debris; maintenance and repair of wing dikes and deflectors, silt retention basins, deep water areas, fish attractors, spawning sites, and aeration systems; fertilization and edging; all on previously disturbed areas.
- H) Signs and Boundary Markers – Installation and maintenance of boundary and information signs.
- I) Tree and Shrub Plantings – Development of new tree plantings using approved tree and shrub list on previously disturbed areas only.
- J) Herbaceous Seedings – Establishment of herbaceous cover (native and tame grass plantings) on previously disturbed areas only; includes interseeding of approved forbs and legumes.
- K) Wildlife Food Plots – Establishment of annual and/or perennial wildlife food plots on previously disturbed areas only.

Programmatic Agreement
between
North Dakota Game and Fish Department (Department),
Department of Interior, U.S. Fish and Wildlife Service (Service) Ecological Services
(ES) North Dakota Field Office
for
Proposed Habitat Management Practices and Activities on Public and Private Lands

- L) Vegetation Control – Use of chemical sprays, mowing, haying, grazing, harrowing, disking, aerator, clipping and burning to control weeds or improve herbaceous habitat.
- M) Woody Vegetation Control – Use of chainsaws, timber axe, shearing, dozer, loader, grinding, burning, or other above ground mechanical means to control woody vegetation or improve woody habitat.
- N) Nesting Structures – Installation and maintenance of artificial nest boxes and platforms.
- O) Project Administration – Record keeping, cooperators contract management and related administrative duties.
- P) Demonstration Sites and Tours – Information and educational assistance for demonstration areas.
- Q) Site Renovation – Major cleanup activities. This can include removal of junked automobiles, farm equipment, fence and trash.
- R) Surveys of Use, Harvest, and Populations – Observations, investigations and report writing.
- S) Boundary Surveys – The delineation of the exact boundary of tracts of land.
- T) Fish and Wildlife Research – Research activities undertaken by fisheries and/or wildlife biologists. Population sampling, census work, disease investigation and life history studies are examples of this type of activity.
- U) Firebreaks – Firebreaks created with no soil disturbance such as mowing. Disking or tilling strips allowed only on previously disturbed areas only.
- V) Wildlife Watering Devices – Repair, replacement and maintenance of existing structures and installation of new structures as long as the activities do not involve disturbance of soil in previously undisturbed areas. Includes above ground tanks, temporary water units, trenched pipelines and above ground pipelines.
- W) Wetland Restoration – restoration of a degraded wetland to its pre-existing natural functioning condition, or to an enhanced level of function over the degraded state. Practices may include restoration of hydric soils through removal of sediment, restoration of hydrophytic vegetation, plugging of surface drainage systems and/or removal of subsurface drainage systems.

DEFINITION: Previously Disturbed Areas - those land areas which have been subjected to agricultural or construction practices that involve disturbance of the land surface to a depth of at least 8 inches.

Programmatic Agreement
between
North Dakota Game and Fish Department (Department),
Department of Interior, U.S. Fish and Wildlife Service (Service) Ecological Services
(ES) North Dakota Field Office
for
Proposed Habitat Management Practices and Activities on Public and Private Lands

IV. Federally Listed and Candidate Species and Designated Critical Habitat

Project activity in regions where the following federally listed species are likely will be surveyed and any project activity will be conducted within the guidelines that are outlined.

- Piping Plover

The piping plover is federally listed as threatened. Birds are known to nest on emergent sandbar habitat in the Missouri and Yellowstone rivers, Lake Sakakawea and on sparsely vegetated shores and islands of shallow alkali lakes. This habitat occurs in the Prairie Pothole and Drift Prairie regions of North Dakota.

If projects occur in the range of the piping plover, surveys will be done to determine presence of birds. If project implementation will affect nesting birds it will be delayed from May 1 through August 1st or until birds have left the area as determined by a survey to avoid disturbance during breeding and to allow fledged young to disperse.

- Interior Least Tern

The interior least tern is federally listed as endangered. Least terns use sparsely vegetated sandbars or shoreline salt flats of lakes along the Missouri River System in North Dakota.

Projects occurring along the Missouri River System adjacent to nesting terns will not be implemented in the months of June and July or until birds have left the area determined by a survey if the projects are deemed a disturbance to avoid peak breeding activity.

- Whooping Crane

Whooping cranes are federally listed as endangered. They use wetlands and cropland ponds for roosting during migration through North Dakota in the spring and fall. Long Lake NWR, Audubon NWR, McLean, Ward, Burke, Divide, Williams, and Mountrail counties have the most frequent sightings.

Since whooping cranes are in North Dakota for only a short time during spring and fall migrations this project will have little affect. If roosting whooping cranes are found to be present at project sites work will be delayed until birds have continued their migration to another area.

- Gray Wolf

Wolves are listed as an endangered species only in the area west of the boundary of the Missouri River and continuing north along Highway 83 to the Canadian

⁴ Programmatic Agreement_NDGFD_USFWS_ES
1/08

Programmatic Agreement
between
North Dakota Game and Fish Department (Department),
Department of Interior, U.S. Fish and Wildlife Service (Service) Ecological Services
(ES) North Dakota Field Office
for
Proposed Habitat Management Practices and Activities on Public and Private Lands

border in North Dakota. Wolves are only an occasional visitor to the state from populations outside of North Dakota. No breeding wolves are known to the state. This project will have no effect on gray wolves in North Dakota.

- **Pallid Sturgeon**

The pallid sturgeon is federally listed as endangered. They are found in the Missouri and Yellowstone rivers in North Dakota. The upper portions of the Missouri River and the Yellowstone River provide important habitat for this species. Loss of habitat due to damming, channelization and bank stabilization has had a negative impact on pallid sturgeon.

Implementation of this project will have no in-stream work associated with it so it will have no effect on pallid sturgeon.

- **Western Prairie Fringed Orchid**

The western prairie fringed orchid is a plant of the tallgrass prairie. It grows 1-3 feet tall and can have up to two dozen flowers arranged on its stalk. It is most often associated with wet meadows in native grassland habitat. In North Dakota western prairie fringed orchids are found in Richland and Ransom counties in tracts of native prairie. Populations of this orchid have declined due to native prairie conversion. Fire suppression and over-grazing have also had an impact on this flower.

In areas known to have western prairie fringed orchid occurrences, surveys will be done on any native prairie or wet meadow to determine occupancy.

Populations will be avoided in project areas where implementation would be deemed a disturbance to orchids.

- **Dakota Skipper**

The Dakota skipper is a candidate species under the Endangered Species Act. In order to contribute to this species' conservation and to assist in efforts to prevent its listing, the Department proposes to follow the USFWS management guidelines.

The Dakota skipper is a small, fast-flying butterfly that inhabits northern tallgrass prairies and eastern (moist) northern mixed-grass prairies. The species exhibits low vagility, typically moving less than 300-400 yards during its relatively short adult flight period between mid-June and mid-July (Dana 1983). For most of the rest of the year it exists as solitary larvae in surface or subsurface burrows. While disturbance, such as burning, is necessary to keep high quality prairie habitat, entire population units can be destroyed by fire, herbicide or pesticide use. In areas where Dakota Skippers may be present, the USFWS Guidelines, "Dakota Skipper Conservation Guidelines" by USFWS dated 9/2007, will be followed when performing management activities.

Programmatic Agreement
between
North Dakota Game and Fish Department (Department),
Department of Interior, U.S. Fish and Wildlife Service (Service) Ecological Services
(ES) North Dakota Field Office
for
Proposed Habitat Management Practices and Activities on Public and Private Lands

Conclusion: For the piping plover, interior least tern, whooping crane, western prairie fringed orchid, and Dakota skipper, the Department has determined that the management activities specified in this agreement may affect, but is not likely to adversely affect, these species or result in the destruction or adverse modification of critical habitat for these species.

- V. Amendments. Any party to this Agreement may request that it be amended, whereupon the parties will consult and upon mutual agreement the amendment will be made in writing and signed by both parties.
- VI. Termination. Any party to this Agreement may terminate it by providing thirty (30) days written notice to the other party.
- VII. Duration. This agreement will continue in full force and effect for as long as the Department is funded by the Service or until this agreement is terminated by any party pursuant to stipulation VI. above.


Terry Steinwand
Director
ND Game and Fish Department

Date: 1/25/08

Concur:


Jeffrey K. Powner
Field Supervisor
USFWS Ecological Services
North Dakota Field Office

Date: 1/28/08

Programmatic Agreement
between
North Dakota Game and Fish Department (Department),
Department of Interior, U.S. Fish and Wildlife Service (Service) Ecological Services
(ES) North Dakota Field Office
for
Proposed Habitat Management Practices and Activities on Public and Private Lands

Literature cited:

Dana, R. 1983. The Dakota skipper: a now rare prairie butterfly. Natural Areas Journal
3:31-34.

APPENDIX C – PROGRAMMATIC AGREEMENT WITH STATE HISTORIC PRESERVATION OFFICER



IN REPLY REFER TO

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Mountain-Prairie Region

MAILING ADDRESS:

Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225-0486

STREET LOCATION:

134 Union Blvd.
Lakewood, Colorado 80228-1807

October 24, 2001

FWS/R6
Refuge Operations
MAIL STOP 60130

Mr. Jerry Weigel
North Dakota Game and Fish Department
100 North Bison Expressway
Bismarck, North Dakota 58501

Dear Mr. Weigel:

Enclosed are copies of the Programmatic Agreement signed by the Fish and Wildlife Service, the North Dakota State Historic Preservation Office, and your agency. Also enclosed is a copy of the letter from the Advisory Council on Historic Preservation. Since they didn't send back a signed copy of the agreement and their letter referred to a Memorandum of Agreement rather than a Programmatic Agreement, I contacted them to make sure they didn't need to sign the agreement. They are comfortable with the document the way it is and see no need to participate.

Please send a copy of the document to the State Historic Preservation Office for their files. If you have any questions, I can be contacted at the above address, by telephone at (303) 236-8145 extension 628, or e-mail at Rhoda_Lewis@fws.gov.

Sincerely,

Rhoda O. Lewis
Regional Archaeologist

Enclosures

Advisory Council On Historic Preservation

The Old Post Office Building
1100 Pennsylvania Avenue, NW, #809
Washington, DC 20004

Reply to: 12136 West Bayaud Avenue, #330
Lakewood, Colorado 80226

October 9, 2001

Rhoda Lewis
Regional Archaeologist
Fish and Wildlife Service
P.O. Box 25486
Denver Federal Center
Denver, CO 80225

REF: *Statewide PA, Habitat Restoration*

Dear Ms. Lewis:

On October 2, 2001, the Council received from you a Memorandum of Agreement (MOA) for the referenced project. In accordance with Section 800.6(b)(1) of the Council's regulations, "Protection of Historic Properties" (36 CFR Part 800), the Council acknowledges receipt of the MOA, along with the supporting project documentation, executed by FWS and the North Dakota State Historic Preservation Officer.

The filing of the MOA completes the requirements of Section 106 of the National Historic Preservation Act and the Council's regulations. Please provide copies of the signed Agreement to all consulting parties for their records.

If we can be of any additional assistance, please contact me (303) 969-5110, or by eMail at nkochan@achp.gov.

Sincerely,



Nancy Kochan
Office Administrator
Western Office of Planning and Review

PROGRAMMATIC AGREEMENT
BY AND AMONG
THE DEPARTMENT OF THE INTERIOR, U. S. FISH AND WILDLIFE SERVICE,
THE NORTH DAKOTA GAME AND FISH DEPARTMENT,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND
THE NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICER

REGARDING IMPLEMENTATION OF THE
FEDERAL AID IN SPORT FISH RESTORATION ACT
FEDERAL AID IN WILDLIFE RESTORATION ACT
ENDANGERED SPECIES ACT

WHEREAS, the United States Fish and Wildlife Service (Service) is responsible for administering the Federal Aid in Fish and Wildlife Restoration Acts, as amended [16 U.S.C. 669-669(i) and 16 U.S.C. 777-777(k)] (Acts) and awarding funds to States for habitat restoration, acquisition and development; and

WHEREAS, the Service has determined that funds provided to states for construction, including funds for acquiring, expanding, remodeling, or altering existing buildings, structures and/or terrain, may have effects on properties included in or eligible for inclusion in the National Register of Historic Places (historic properties), and has consulted with the Advisory Council on Historic Preservation (Council) and the North Dakota State Historic Preservation Officer (SHPO) pursuant to Section 800.13 of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, because the Acts involve state-administration, the task of collecting information on the effects of proposed undertakings to enable the Service to comply with Section 106 lies with the North Dakota Game and Fish Department (Department); and

WHEREAS, agreement extends exclusively to projects on lands purchased with federal aid and/or projects funded by federal aid; and

WHEREAS, the Department participated in the consultation and has been invited to concur in this Programmatic Agreement; and

NOW, THEREFORE, the Service, the Department, the SHPO, and the Council agree that the Acts will be administered in accordance with the following stipulations:

STIPULATIONS

The Service shall ensure that the following measures are carried out:

I. Guidance to the Department

The Service shall provide information to the Department regarding the Council's regulations and the Standards and Guidelines for Evaluation (49 FR 44723-44726 and subsequent editions), and other standards as appropriate, issued by the Secretary of the Interior.

II. Identification of Historic Properties

- A. Pursuant to 36 CFR § 800.4, the Department shall consult with the SHPO to determine whether historic properties are located within a proposed project's area of potential effects as defined by 36 CFR § 800.2(c). Such determinations shall be undertaken early in the process of planning each project, and completed before the application for funding assistance is submitted to the Service.
- B. The Department shall notify the Service if the Department and the SHPO are unable to agree as to the eligibility of a property to be affected by a project. Upon receipt of such notification and relevant documentation from the Department, the Service will consult with the SHPO to resolve eligibility problems. If the Service determines that a consensus cannot be reached with the SHPO, the Service shall submit appropriate documentation to the Keeper of the National Register to obtain a final determination of eligibility.
- C. If, pursuant to 36 CFR § 800.4(d), there are no historic properties present or there are historic properties present but the project will have no effect on them, the Department shall notify the SHPO, the Service, and any interested persons known to be interested in the possible effects of the project on historic properties. Upon notification, the project may proceed with no further consideration under Section 106.
- D. If historic properties are identified within the area of potential effects, the Service shall ensure that the project's effects are assessed in accordance with, Stipulation III.

III. Assessing Effects and Treatment

- A. Pursuant to 36 CFR § 800.5, the Department, in consultation with the SHPO, shall apply the Criteria of Effect (36 CFR § 800.9(a)) to historic properties that may be affected, giving consideration to the views, if any, of interested persons. In accordance with 50 CFR 80.5, the Department shall submit to the Service information regarding effects on historic properties as part of their funding application.

- B. If the Department and the SHPO agree that the project will have no effect on any historic properties, the Department shall notify the Service and provide appropriate documentation. The Service shall make the documentation available for public inspection.
- C. If the Department and the SHPO do not agree that the project will have no effect on historic properties, or if the Department and the SHPO agree that the project will have an effect on historic properties, the Department shall notify and provide appropriate documentation to the Service which shall, in consultation with the SHPO, apply the Criteria of Adverse Effect (36 CFR Part 800.9(b)) to determine whether the effect of the undertaking should be considered adverse.
- D. If the Service determines that the effect is not adverse, the Service shall consult with the SHPO and the Council in accordance with 36 CFR § 800.5(d), the Service shall in accordance with 36 CFR Part 800.5(d)(1) maintain a record of the finding and provide information to the public on request, consistent with the confidentiality provisions of 36 CFR Part 800.11(c). The Department shall cooperate with the Service in providing appropriate information.
- E. If the Service finds that the effect is adverse, the Service shall consult with the SHPO and the Council in accordance with 36 CFR § 800.5(e) and § 800.6 to develop appropriate treatment measures. The Department shall cooperate with the Service in providing appropriate information and documentation.
- F. If previously unidentified historic properties are discovered or if known historic properties are affected in an unanticipated manner during construction activities, such activities shall cease immediately in the vicinity of the discovery. The Service shall be notified immediately of the discovery, and shall comply with 36 CFR § 800.11 to determine appropriate treatment of the discovery.
- G. If human remains are discovered during the execution of project activities, pursuant to this Agreement, the project shall stop. Stipulations of the Native American Graves Protection and Repatriation Act (NAGPRA), if relevant, and the North Dakota Protection of Human Burial Sites Law (NDCC 23-06-27) and associated administrative code (NDAC 40-02-03) will be implemented.

IV. Project Activities Not Requiring Review By the SHPO or the Council

Project activities not requiring review by the SHPO or the Council are enumerated in Attachment 'A'. If previously unsuspected archaeological remains are uncovered during these project activities, the Department will stop the project, notify the SHPO and the Service, and the project will be reviewed pursuant to the terms of this agreement. Activities not excluded in Attachment 'A' will be reviewed pursuant to the terms of this Agreement.

V. Monitoring and Review

- A. The SHPO and the Council may monitor any activities carried out pursuant to this Agreement, and the Council will review such activity if so requested. The Department and the Service will cooperate with the SHPO and the Council in carrying out these monitoring and review responsibilities.
- B. The parties to this agreement shall consult annually to review implementation of its terms and to determine whether revisions are needed. At that time, annual summaries of activities completed under this agreement will be reported. If revisions are needed, the parties will consult in accordance with 36 CFR Part 800 to make such revisions.

VI. Dispute Resolution

- A. Should the Department, the SHPO or the Council object within 30 days to any plans provided for review or actions proposed pursuant to this agreement, the Service shall consult with the objecting party to resolve the objection. If the Service determines that the objection cannot be resolved, the Service shall request the comments of the Council pursuant to 36 CFR § 800.6(b). Any Council comments provided in response to such a request will be taken into account by the Service in accordance with 36 CFR § 800.(c)(2), with reference only to the subject of the dispute; the Service's responsibility to carry out all actions that are not the subject of the dispute will remain unchanged.
- B. At any time during implementation of the measures stipulated in this agreement, should an objection to any such measure or its manner of implementation be raised by a member of the public, the Department shall take into account and consult as needed with the objecting party, the SHPO, the Service or the Council, to resolve the objection.

VII. Professional Qualifications

All historic preservation work carried out by the Department pursuant to this agreement shall be carried out by or under the direct supervision of a person or persons meeting, at minimum, the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9).

VIII. Amendments

Any party to this Agreement may request that it be amended, whereupon the parties will consult in accordance with 36 CFR § 800.14 to consider such amendment.

IX. Termination

Any party to this Agreement may terminate it by providing thirty (30) days notice to the other parties, provided that the parties will consult during the period prior to the termination to seek agreement on amendments or other actions that would avoid termination. In the event of termination, the Service will comply with 36 CFR § 800.4 - § 800.6 with respect to individual undertakings covered by this Agreement.

X. Failure to Comply

In the event that the Department does not act in accordance with the terms of this Agreement, the Service will request the Council's comments on the effects of projects on historic properties on a project-by-project basis, as provided in 36 CFR Sec. § 800.4 through § 800.6. The Service will not take any action, knowingly sanction any action on the part of the Department seeking or administering project funding under the Acts, or make any irreversible commitment that would result in adverse effects on historic properties, until the terms of this agreement have been met.

XI. Duration

This agreement will continue in full force and effect for as long as the Department is funded by the Service or until this agreement is terminated by any party pursuant to Stipulation IX above.

Execution of this Programmatic Agreement evidences that the Service has satisfied its Section 106 responsibilities for all individual projects under the Acts.

UNITED STATES FISH & WILDLIFE SERVICE

By: Ralph Q. Noyes Date: 9/24/01
Regional Director, U.S. Fish & Wildlife Service

NORTH DAKOTA STATE HISTORIC PRESERVATION OFFICER

By: Heidi E. Rasmussen Date: 8-16-01
ND State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: _____ Date: _____
Executive Director

CONCUR:

NORTH DAKOTA GAME & FISH DEPARTMENT

By: David L. Pielke Date: July 20, 2001
Director, ND Game & Fish Department

DEFINITIONS

- A. Historic Property – Means any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in, the National Register. This term includes artifacts, records, and remains that are related to and located within such properties. The term “eligible for inclusion in the National Register” includes both properties formally determined as such by the Secretary of Interior and all other properties that meet the National Register criteria.
- B. Previously Disturbed Areas – Those land areas which have been subjected to agricultural or construction practices, prior to acquisition by the Department that involve disturbance of the land surface to a depth of at least 8 inches.
- C. Previously Determined Non-Historic Structures Including Dams and Dikes – Structures which, under earlier reviews, were found not to meet the National Register’s criteria for evaluation strictly for being less than 45 years old. Structures that are 45 years old or older must be evaluated or re-evaluated regardless of prior review decisions (refer to 36 CFR § 800.4(c)(1)).

ATTACHMENT 'A'
TO THE FISH & WILDLIFE SERVICE
AND
THE NORTH DAKOTA GAME & FISH DEPARTMENT
PROGRAMMATIC AGREEMENT

Project activities not requiring review by SHPO or Council:

1. Any activity that falls within a defined project area that has been previously reviewed by SHPO and granted a "No Properties" or "No Historic Properties" (Example Stamp Below) clearance for a period of 10 years from the date of the original recommendation.

NO HISTORIC PROPERTIES AFFECTED

The described undertaking will not affect any historic properties (36CFR800.4(a)) within the defined area of potential effect (APE). The defined APE contains:

_____ no known historic properties

_____ historic properties which will not be affected

_____ Date _____

Project Review Coordinator

In Response, Please Reference: SHPO # _____

2. Any activity that qualifies under one or more of the following categories:
 - A. Buildings – Operation, maintenance and repair of previously determined non-historic structures.
 - B. Dams and Dikes – Repair and maintenance of previously determined non-historic small dams and dikes where activities are confined to previously disturbed areas. All other structures 45 years old or older will be evaluated and/or reviewed for effects.
 - C. Water Level Management – Construction of water level control structures. This can involve valve systems, gates or similar devices. It can also involve pumping of water into wetland areas. This categorical exclusion does not apply to projects which raise water levels higher than those which normally occur naturally, or which will result in increased erosion of artificially created shorelines. This applies only if there is no ground disturbance.
 - D. Bridges Culverts and Low Water Crossings – Repair, replacement, and maintenance of previously determined non-historic structures where no archaeological properties exist. All other structures will be evaluated and reviewed for effects.

- E. Lake and Stream Improvements – Stream clearance of fallen timber and debris; maintenance and repair of wing dikes and deflectors, silt retention basins, deep water areas, fish attractors, spawning sites, and aeration systems; fertilization and edging; all on previously disturbed areas.
- F. Aquatic Habitat Improvements – Chemical fish renovation, aeration, fish feeders, fish screens, in-lake artificial structure and vegetation plants and shoreline stabilization, when there is no disturbance of soil in previously undisturbed areas.
- G. Roads and Trails – Graveling, installing vehicle gates, and mowing on and within existing road and trail right-of-way's.
- H. Signs and Boundary Markers – Installation and maintenance of boundary and information signs. The delineation of the exact boundary of tracts of land. This activity is most often conducted for boundary fencing or land acquisition purposes.
- I. Fences – Construction of new boundary or interior fences, including installation of gates, and repair and maintenance of existing fences. These are standard 3- or 4-strand fences.
- J. Courtesy Docks – Consist of metal and/or wooden docks placed on existing boat ramps to facilitate launching and loading of boats, gear and occupants.
- K. Construction of Fishing Piers – Usually constructed of wood, metal, concrete or plastic. These are either floating structures or are supported by posts. Earth fill or rock piers would not be included.
- L. Nest Structure – Placement of wood duck boxes, squirrel boxes, and nesting platforms on suitable areas.
- M. Herbaceous Seeding – Establishment of grass nesting cover. This is restricted to land that has previously been cultivated.
- N. Tree and Shrub Plantings – Development of new tree plantings, replanting and care for same (except when plowing and planting in previously undisturbed soils or where archeological sites occur).
- O. Public Use Facilities – Operation, replacement, repair and maintenance of existing blinds, parking lots, security lights, boat docks, boat ramps (boat ramp extensions), drinking water wells, toilets, and jetties, when there is no disturbance of soil in previously undisturbed areas. Repairs may include gravel placement, mowing, signing and fencing.

- P. Vegetation Control – Use of chemical sprays, mowing or burning to control noxious weeds or to improve vegetative cover. Removal of brush and trees from an area if this work does not disturb the ground.
- Q. Firebreaks – Plowing or rototilling strips (except in previously undisturbed soils and/or where archeological sites occur). This practice is similar to tree planting and food plot establishment where soil disturbance is limited to the plow zone.
- R. Timber Management – Controlled cutting of woodlands to improve timber stands.
- S. Feeding and Watering – Development of food plantings on wildlife management areas, except in previously undisturbed areas. This usually involves corn, small grain or forage plantings. This category also includes the purchase or construction placement of wildlife feeders.
- T. Fish and Wildlife Research or Management – Consists of activities undertaken by either fisheries or wildlife biologists. Population sampling, census work, report writing, disease investigation and life history studies are examples of this type of activity.
- U. Fish Stocking – The release of various types of sport or forage fish into fishing waters as part of a fisheries management program.
- V. Custodial Functions – Inspection of wildlife management areas.
- W. Project Administration – Record keeping, cooperator contract management, project planning and related administrative duties.
- X. Education Programs – These include aquatic education, hunter education, Project Wild, and other natural resource education programs that do not involve soil disturbance on previously undisturbed areas.

APPENDIX D – US FISH AND WILDLIFE SERVICE FEDERAL FINANCIAL GRANT AWARD



United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region



IN REPLY REFER TO:
FWS/R6/WSFRP

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228-1807

Terry Steinwand, Director
North Dakota Game and Fish Department
100 North Bismarck Expressways
Bismarck, North Dakota 58501-5095

APR - 1 2008

Dear Mr. Steinwand:

The enclosed Application for Federal Assistance for Grant #W-91-L, Amendment #0 (FAIMS Grant Agreement #W-91-L-1, Amendment #0) titled *Private Lands Open to the Sportsmen (Plots) Public Hunting Access Program* is approved effective April 1, 2008, with a total Federal share in the amount of \$500,250.00. The performance period of this grant award is April 1, 2008, through June 30, 2009.

Please note that acceptance of a Federal Financial grant award from the Department of the Interior carries with it the responsibility to be aware of and comply with the standard and special terms and conditions in Enclosure 1 to this letter.

If you have any questions regarding this grant award, please contact Eddie Bennett or me at (303) 236-8165.

Sincerely,

David McGillivray
Chief, Division of Wildlife
and Sport Fish Restoration

Enclosure(s)

cc: Kim Molesworth, FA Coordinator

Enclosure 1 (continued)
North Dakota
W-91-L Amd. 0

Special Terms and Conditions

EFFECTIVE DATE AND PRE-AWARD COSTS

All costs for work herein incurred by the grantee prior to the effective date are not eligible for reimbursement.

COST ACCOUNTING

Cost accounting for this grant award shall be at the grant award level.

BUDGET CHANGES

The prior written approval requirement for cumulative transfer of funds among direct cost categories pursuant to 43 CFR 12.70(c)(1)(ii) is waived for this grant award.

REPORTS

The U.S. Fish and Wildlife Service must receive: (a) annual interim Financial Status Reports and annual interim Performance Reports no later than 90 days after each anniversary of the effective date of the grant award; and (b) a final Performance Report and final Financial Status Report no later than 90 days after the expiration of the grant award period or termination of grant support.

STATE COPY		Version 7/03	
APPLICATION FOR FEDERAL ASSISTANCE		2. DATE SUBMITTED 03/18/2008	Applicant Identifier <u>W-91-L, Am. # 0</u>
1. TYPE OF SUBMISSION: Application <input checked="" type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction		3. DATE RECEIVED BY STATE	State Application Identifier
Pre-application <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction		4. DATE RECEIVED BY FEDERAL AGENCY MAR 20 2008	Federal Identifier <u>W-91-L-1, Am. # 0</u>
5. APPLICANT INFORMATION			
Legal Name: North Dakota Game and Fish Department		Organizational Unit:	
Organizational DUNS: 80-274-8871		Department:	
Address: Street: 100 North Bismarck Expressway		Name and telephone number of person to be contacted on matters involving this application (give area code)	
City: Bismarck		Prefix: Mr. First Name: Paul	
County: Burleigh		Middle Name: T.	
State: ND Zip Code: 58501		Last Name: Schadewald	
Country: USA		Suffix:	
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 45-6002467		Email: pschadew@state.nd.us	
8. TYPE OF APPLICATION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.)		Phone Number (give area code): (701) 328-6328 Fax Number (give area code): (701) 328-6352	
Other (specify) (Increase Award)		7. TYPE OF APPLICANT: (See back of form for Application Types) A. State Other (specify)	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 15-611		9. NAME OF FEDERAL AGENCY: U.S. Department of Interior, Fish and Wildlife Service	
TITLE (Name of Program): Federal Aid in Wildlife Restoration		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Private Land Open To Sportsmen (PLOTS) Public Hunting Access Program	
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): North Dakota		14. CONGRESSIONAL DISTRICTS OF: a. Applicant ND b. Project ND	
13. PROPOSED PROJECT Start Date: 04/01/2008 Ending Date: 06/30/2009		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. Yes <input checked="" type="checkbox"/> 25% THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE: 03/18/2008 b. No <input type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
15. ESTIMATED FUNDING:		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input checked="" type="checkbox"/> Yes If "Yes" attach an explanation. <input checked="" type="checkbox"/> No	
a. Federal \$ 500,250.00	b. Applicant \$ 166,750.00		
c. State \$	d. Local \$		
e. Other \$	f. Program Income \$		
g. TOTAL \$ 667,000.00			
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.			
a. Authorized Representative			
Prefix: Mr. First Name: Paul		Middle Name: T.	
Last Name: Schadewald		Suffix:	
b. Title: Chief, Administrative Services		c. Telephone Number (give area code): (701) 328-6328	
d. Signature of Authorized Representative: <i>Paul Schadewald</i>		e. Date Signed: 3/20/08	
Previous Edition: Usable Authorized for Local Recreoduction			
Approved Effective APR 1 2008			

RECEIVED INFRA 2 6 2008

PROGRAM NARRATIVE

State Agency: North Dakota Game and Fish Department

Project Title: Private Land Open To Sportsmen (PLOTS) Public Hunting Access Program

Anticipated Activity Period: April 1, 2008 - June 30, 2009

History: The North Dakota Game and Fish Department's mission is to protect, conserve, and enhance fish and wildlife populations and their habitats for sustained public use. The Private Land Initiative (PLI) is the Department's overall mechanism for applying this mission onto the private landscape of North Dakota.

The PLI has 3 main goals:

1. Conservation of habitats for fish and wildlife populations.
2. Provide landowners interested in wildlife conservation with cost share assistance for developing and protecting wildlife habitat.
3. Provide the public with opportunities to access fish and wildlife resources on private land. The primary focus of this goal is hunting access. PLOTS, or Private Land Open To Sportsmen, was created to address hunting access issues.

The PLI provides financial and technical assistance to private landowners through the following array of habitat establishment/enhancement and cost sharing programs:

- Herbaceous Cover Plantings
- Wildlife Tree/Shrub Plantings
- Forest Management
- Wildlife Water Developments
- Cooperative Projects

The Game and Fish Department began working with private landowners in the early 1950s. The Department designed the Habitat Development Program and worked with local Soil Conservation Districts (SCDs) to plant trees and herbaceous cover on private lands. During the 1960s, the Department offered technical assistance to private landowners. The Department continued to promote private land stewardship through Acres for Wildlife program it implemented with the Extension Service in the early 1970s. Throughout the 1980s, the Department continued to provide technical and financial assistance for habitat development.

With the establishment of 3 million acres (1 million hectares) of grass through the USDA Conservation Reserve Program (CRP) in the 1985 Farm bill the Department began securing access for hunters. With the abundant CRP acres, came the pheasant boom of the early 1990s, competing closely with the glory years of the 1940s. The competition and demand for quality private land for hunting increased during the 1990s. In 1997, the Department created the CRP Access Program; a component of the PLI, which provided cost share assistance to landowners who enrolled their land into CRP and planted herbaceous cover in exchange for public access. In 2003, the Department made adjustments to the program to address changes in USDA's haying and grazing provisions by providing incentives for landowners to manage their CRP in a manner that is most beneficial to wildlife and hunters.

North Dakota

Page 2

Need:

Meeting the public's demands for access to quality private land for hunting is a priority for the Department. CRP provides the habitat base necessary to sustain wildlife populations, such as upland birds, waterfowl and big game. The Department is concerned about CRP contracts set to expire between 2008 and 2010 and has recently stepped up its effort to enroll additional CRP into the PLOTS program. By enrolling CRP into the PLOTS program, this allows the Department to accomplish much more with the limited budget it has by "piggybacking" public access onto the CRP program. This approach also allows the Department to "bank ahead" acres of habitat and public access for the future.

Objective:

To provide long term public access to quality CRP habitat for hunting in 2008-2009 by securing agreements through the Department's PLOTS program on CRP grasslands for the term of the CRP contract, up to 15 years.

Expected Benefits:

NDGFD had a goal of reaching 1 million acres of quality private land enrolled in its PLOTS program by 2009. This goal was reached two years ahead of schedule; however, the next challenge for the Department will be to maintain these acres. With the challenges that lie over the horizon, such as increased demand for public access, increased commercialization of public wildlife, loss of CRP habitat, increased demands for biofuels and agricultural production; it will be difficult for the Department to maintain 1 million acres of quality private land.

The CRP Access Program is a critical component of the PLOTS program. The CRP provides essential habitat for a variety of wildlife species. Many hunters focus on CRP for hunting. Citizens of North Dakota, wildlife, private landowners and hunters benefit from CRP. CRP reduces soil erosion, improves water and air quality and provides important habitat for a variety of wildlife species. CRP has been attributed to increases in wildlife populations such as waterfowl, pheasants and deer. Reynolds et al. (2007) concluded that CRP in the Prairie Pothole Region of North Dakota, South Dakota and northeastern Montana has contributed 2 million additional ducks per year. The North Dakota Game and Fish Department spring pheasant population index shows that since CRP was established in 1985, pheasant populations have increased. Neilson et al. (2006) estimates a 22 percent increase in counts of ring-necked pheasants for every 4 percent increase in CRP enrolled acres within large units of pheasant habitat.

The next few years are critical for wildlife because of expiring CRP contracts. In 2007, North Dakota had approximately 400,000 acres (161,874 hectares) of CRP either expire or landowners pulled out of their contracts (USDA-FSA report. 2008). Increased demand for biofuels, such as ethanol, high commodity prices and high land rents, have all factored into landowners' decisions whether to continue their CRP contracts. Over the next four years, 1,080,000 CRP acres (437,060 hectares) in North Dakota will expire. This loss of habitat will result in declines in wildlife populations, such as grassland nesting birds (Niemuth et al. 2007) and increased demand for access to the remaining CRP lands. The Department is providing incentives to landowners with CRP who retain their CRP under contract with USDA rather than pull out of their USDA contract for agricultural production.

Figure 1. CRP Priority Zones

Program Administration

The PLI is funded with revenue from the sale of Habitat Stamps, hunting license fees and the interest accrued from the Department's general fund balance. Four full-time employees located in the Department's central office in Bismarck head up this initiative and administer its budget, while seven full-time employees located in district field offices work with district biologists and local landowners to provide for delivery of the programs. The state is divided into 9 PLI districts (Figure 4). Each district has a PLI biologist who delivers the programs on the ground and works with private landowners on a daily basis. (Salaries will not be funded by this grant.)

On-site visits to potential PLOTS offers are conducted by PLI biologists. If land qualifies, CRP Access agreements are written by PLI biologists at the district level and sent to the Bismarck headquarter office for review, payment, filing and recording. Agreements are recorded with the county register of deeds and a copy is supplied to the landowner after final signatures and recording. Payments are distributed from the Bismarck headquarter office and records are tracked through a web-based database.

Boundary signing of PLOTS agreements is conducted by the district PLI biologist with assistance from additional field staff. Annual compliance checks and evaluations are conducted on each PLOTS tract by PLI biologist and additional field staff.

CRP Access Program Designation

Yellow, triangular aluminum signs are used to identify PLOTS boundaries (Figure 2). These signs will include a sticker that explains these PLOTS were funded in part by Pittman-Robertson funds and will display the Federal Aid Wildlife Restoration logo (Figure 3). There will also be other signs for unique situations such as "No Shooting Toward Buildings" or "No Vehicles Beyond This Point". PLOTS signs are normally placed on standard, pre-drilled metal posts. These signs and posts remain the property of Department and will be removed and returned at the end of the CRP Access agreement. Boundary signs are placed on the PLOTS tract prior to the first hunting season after the CRP Access agreement is signed by both parties. Maintenance of signs and posts is limited to replacement on an as-needed basis; Department staff will determine such needs during on-site visits.



Figure 2. Example of the PLOTS boundary sign. Figure 3. Example of sticker on PLOTS sign.

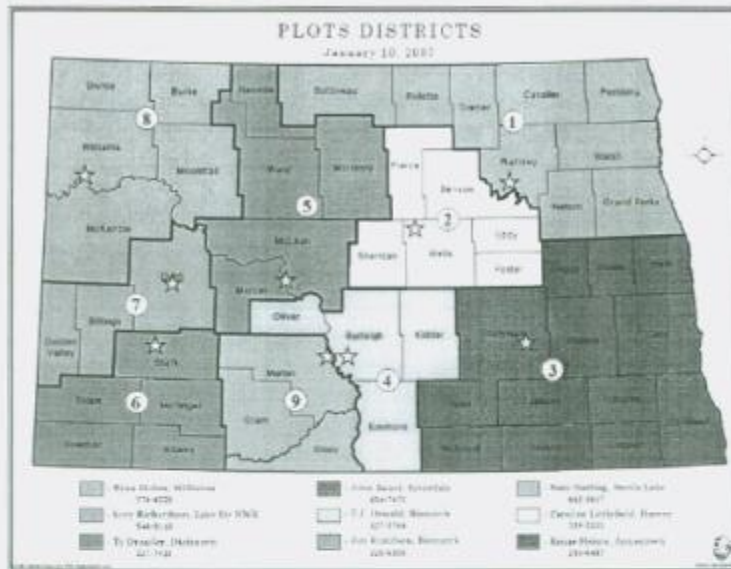


Figure 4. Private Land Initiative (PLI) Districts

PLOTS Guide publication

A PLOTS guide depicting the location of PLOTS tracts and program guidelines is published annually (with State funds) and is available to resident and nonresident hunters at Department offices and hunting license vendors throughout the state. Approximately 80,000 guides are printed in early fall for distribution prior to the fall hunting seasons.

Estimated Costs:

Item	Federal	State	Total All
Supplies/Stickers for signs <i>revised</i>	\$7,500	\$2,500	\$10,000
Agreements (payments to landowners)	\$492,750	\$164,250	\$657,000
Total	\$500,250	\$166,750	\$667,000

Funding Sources:

- 75% Federal Pittman-Robertson
- 25% Non-Federal NDGFD-Private Land Initiative (PLI)

Relation to Other Federal Projects:

Many of the acres that are enrolled in this project are also enrolled in the Conservation Reserve Program and other conservation programs through the United States Department of Agriculture (USDA) federal farm programs. The PLOTS Program receives no financial support from any USDA farm programs. This project is not otherwise related to any other federal projects.

North Dakota

Page 6

**Attachment A:
CRP Access Program Agreement**

Agreement:

The North Dakota Game and Fish Department will use the CRP Access Program Agreement with landowners under this Federal Aid proposal. The Department files these agreements with the county register of deeds. A copy of the agreement is supplied to the landowner after final signatures, recording and payment.

Payments:

Payments are distributed from the Bismarck headquarter office and records are tracked through a web-based database. Payments are made one-time upfront upon execution of the agreement by both parties. CRP habitat incentive payments (CRP Lease) will be made with funding from this federal aid proposal.

North Dakota

Page 7

Literature Cited

- Nielson, R. M., L. L. McDonald, J. P. Sullivan, C. Burgess, D. S. Johnson, and S. Howlin. 2006. Estimating response of ring-necked pheasant (*Phasianus colchicus*) to the Conservation Reserve Program. Technical report prepared for US Department of Agriculture Farm Service Agency, Contract Number 53-3151-5-8059, Western EcoSystems Technology, Inc., 2003 Central Avenue, Cheyenne, WY 82001.
- Niemuth, Neal D., Quamen, Frank R., Naugle, David E., Reynolds, Ronald E., Esty, Michael E., Shaffer, Terry L. . 2007 *Benefits of the Conservation Reserve Program to Grassland Bird Populations in the Prairie Pothole Region of North Dakota and South Dakota*. Reimbursable Fund Agreement OS-IA-04000000-N34. United States Department of Agriculture Farm Service Agency
- Reynolds, Ronald E., Loesch, Charles R. , Wangler, Brian, Schaffer, Terry L. 2007. *Waterfowl Response to the Conservation Reserve Program and Swampbuster Provision In the Prairie Pothole Region, 1992–2004*. Reimbursable Fund Agreement0 5-IA-04000000-N34. United States Department of Agriculture Farm Service Agency.
- United States Department of Agriculture, Farm Service Agency. 2008. *Summary of Active and Expiring CRP Cropland Acres by State*. <http://www.usda.gov/wps/portal/usdahome>

PR-PLI Project

Environmental Assessment:

This project involves *temporary* acquisition of an interest in private lands statewide for the purpose of providing unrestricted public hunting access to privately owned lands during a time period specified in individual contracts with cooperating landowners. This interest is acquired from willing cooperators only. The operational activities described in this project, namely signing, are the temporary addition of small structures in an area of existing improvements on private lands that result in no or only minor changes in the use of the land. Therefore, this project qualifies as a categorical exclusion from the NEPA process as described in the federal Register, Vol.62 no.11, Page 2381, Sections 1.4(A)4 and (B)3.

The exceptions to the application of these categorical exclusions were considered by the Department and were found to be not applicable to this project.

Executive Order No. 11988, Floodplain Management. Executive Order 11988 is not deemed applicable as all work activities are categorical exclusions and will not have any adverse impact on existing structures or facilities nor will they disrupt floodplain values. This work will not change more than 10 percent of the floodplain area.

Executive Order No. 11990, Protection of Wetlands. Executive Order 11990 is not applicable as all work activities are categorical exclusions and will not have any adverse impact on wetlands.

Public Law 97-98, Farmland Protection Policy Act. Unique farmlands are lands used for the production of specific high-value crops. This project occasionally involves the installation of temporary signs. These activities do not disturb the soil nor have any permanent effect on these lands. Therefore, this project will not have any impact on prime or unique farmlands.

Endangered Species Act of 1973. With the following exceptions, no federally listed threatened or endangered species or critical habitats occur within or adjacent to the areas affected by this project.

Exceptions:

1) Whooping crane (*Grus americana*). During migration whooping cranes have stopped for short periods on McKenzie Slough, Arena and Lake Sakakawea Wildlife Management Areas. These birds are monitored by State and Federal enforcement and biological staff. Disturbance of these birds is limited. To avoid impacts on whooping cranes, work being conducted on areas will cease while cranes are present. If warranted, after consultation with the Fish and Wildlife Service, areas with whooping cranes present will be temporarily closed to hunting

and other activities.

2) Interior Least Tern and Piping Plover. These birds are known to occur on the Department's Missouri River Wildlife Management Areas and on Lake Arena, McPhail, Horsehead, Ashley, Audubon, and Palermo Wildlife Management Areas. Work will not be done that will affect their habitat. The North Dakota Game and Fish Department's Endangered Species Program includes signing of nesting areas to keep the public away from nesting birds. The Department will not do project work in adjacent areas that will disturb nesting birds.

3) Western Prairie Fringed Orchid. These occur in Ransom and Richland counties. This project will not negatively impact these and may protect some land where they occur.

4) Pallid Sturgeon, Sicklefin Chub and Sturgeon Chub – These species occur in the Missouri River, but will not be negatively impacted by this program.

5) Black-footed Ferret, Gray Wolf and Prairie Dog – Black-footed ferret are not currently known to inhabit North Dakota. Gray Wolf are not established in North Dakota. Occasionally individual animals travel through North Dakota from nearby established populations in other states. Prairie dogs are at scattered locations in the western half of North Dakota. Project work will not affect areas where these species are known to occur.

The above exceptions are further addressed in the Department's Programmatic Agreement with the USFWS Ecological Services ND Field Office, dated January 2008, where it was determined that the project actions may affect, but is not likely to adversely affect, these species or result in the destruction or adverse modification of critical habitat for them.

Sport hunting is a common activity on private lands statewide during open seasons. This project simply opens these same private lands to public hunting access for the purpose of hunting. Therefore, this project is not expected to have any impact on any of the species considered.

Environmental Justice (Executive Order 12898): This project will not have disproportionately high and adverse human health or environmental effects on low income populations, minority populations, or Indian tribes.

Invasive Species (Executive Order 13112): This project will not promote the introduction or spread of invasive species.

State Historical Preservation Officer (SHPO) Review – This review is waived as per Memorandum of Agreement Dated September 24, 2001.

This proposal is completely covered by categorical exclusion 1.4B3 in 516 DM 2, Appendix 1; and/or 516 DM 6, Appendix 1.

This proposal does not have significant adverse effects on public health or safety.

This proposal does not have significant adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas under Federal ownership or jurisdiction.

This proposal does not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].

This proposal does not have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

This proposal does not have a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

This proposal does not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

This proposal does not have significant adverse effects on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau or office, the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, or a consulting party under 36 CFR 800.

This proposal does not have significant adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant adverse effects on designated Critical Habitat for these species.

This proposal does not have the possibility of violating a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

This proposal does not have the possibility for a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

This proposal does not have the possibility to limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).

This proposal does not have the possibility to significantly contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).



United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region



IN REPLY REFER TO:
FWS/R6/FA

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228-1807

OCT 1 2009

Terry Steinwand, Director
North Dakota Game and Fish Department
100 N. Bismarck Expressway
Bismarck, North Dakota 58501

Dear Mr. Steinwand:

The enclosed Application for Federal Assistance for Grant #W-91-L, Amendment #2 (FAIMS Grant Agreement #W-91-L-1, Amendment #2) titled *Private Land Open To Sportsmen (Plots) Public Hunting Access* is approved effective **OCT 1 2009**, with a total Federal share in the amount of \$487,500.00. The performance period of this grant award is July 1, 2007, through June 30, 2011.

Please note that acceptance of a Federal Financial grant award from the Department of the Interior carries with it the responsibility to be aware of and comply with the standard and special terms and conditions in Enclosure 1 to this letter.

If you have any questions regarding this grant award, please contact Eddie Bennett or me at (303) 236-8165.

Sincerely,

David McGillivray
Chief, Division of Wildlife
and Sport Fish Restoration

Enclosure(s)

cc: Kim Molesworth, FA Assistant

Enclosure 1
North Dakota
W-91-L Amd. 2

Standard Terms and Conditions

Acceptance of a Federal Financial Assistance award from the Department of the Interior (DOI) carries with it the responsibility to be aware of and comply with the terms and conditions of the award. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. Grant awards are based on the grant application submitted to, and as approved by the DOI and are subject to the terms and conditions incorporated either directly or by reference in the following:

- Program legislation/regulation.
- Special terms and provisions specified in the Notice of Federal Financial Assistance Grant Award.
- Code of Federal Regulations/Regulatory Requirements below, as applicable:

43 CFR 12(A) Administrative and Audit Requirements and Cost Principles for Assistance Programs

43 CFR 12(E) Buy American Requirements for Assistance Programs

43 CFR 12(C) Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

43 CFR 12(F) Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, other Non-Profit and Commercial Organizations

43 CFR 43 Government wide Requirements for a Drug-Free Workplace

43 CFR 42 Government wide Debarment and Suspension (Non-procurement)

43 CFR 18 New Restrictions on Lobbying

These Codes of Federal Regulation (CFR) are accessible on the internet at:
<http://www.doi.gov/pam/TermsandConditions.html>

- Interim Guidance for Financial Status and Performance Reporting at:
<http://wsfrprograms.fws.gov/subpages/toolkitfiles/intgdrpt.pdf>

Enclosure 1 (continued)
North Dakota
W-91-L Amd. 2

Special Terms and Conditions

EFFECTIVE DATE AND PRE-AWARD COSTS

All costs for work herein incurred by the grantee prior to the effective date are not eligible for reimbursement.

COST ACCOUNTING

Cost accounting for this grant award shall be at the grant award level.

BUDGET CHANGES

The prior written approval requirement for cumulative transfer of funds among direct cost categories pursuant to 43 CFR 12.70(c)(1)(ii) is waived for this grant award.

REPORTS

The U.S. Fish and Wildlife Service must receive: (a) annual interim Financial Status Reports and annual interim Performance Reports no later than 90 days after each anniversary of the effective date of the grant award; and (b) a final Performance Report and final Financial Status Report no later than 90 days after the expiration of the grant award period or termination of grant support.

STATE COPY		Version 7/03	
APPLICATION FOR FEDERAL ASSISTANCE		2. DATE SUBMITTED 09/24/2009	Applicant Identifier W-91-L, AM2
1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction	Pre-application <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
5. APPLICANT INFORMATION		4. DATE RECEIVED BY FEDERAL AGENCY SEP 28 2009	Federal Identifier W-91-L-1, AM2
Legal Name: North Dakota Game and Fish Department		Organizational Unit Department	
Organizational DUNS: 80-274-8871		Division	
Address: 100 North Bismarck Expressway		Name and telephone number of person to be contacted on matters involving this application (give area code)	
City: Bismarck		Prefix: Mr. First Name: Paul	
County: Burleigh		Middle Name: T.	
State: ND Zip Code: 58501		Last Name: Schadewald	
Country: USA		Suffix:	
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 45-6002467		Email: pschadew@state.nd.us	
8. TYPE OF APPLICATION: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input checked="" type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify) Increase award.		7. TYPE OF APPLICANT: (See back of form for Application Types) A. State Other (specify)	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 611-15-634		9. NAME OF FEDERAL AGENCY: U.S. Department of Interior, Fish and Wildlife Service	
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): North Dakota		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Private Land Open to Sportsmen (PLOTS) Public Hunting Access Program.	
13. PROPOSED PROJECT Start Date: 07/01/2007 Ending Date: 06/30/2011		14. CONGRESSIONAL DISTRICTS OF: a. Applicant ND b. Project ND	
15. ESTIMATED FUNDING: a. Federal \$ 487,500.00 b. Applicant \$ 162,500.00 c. State \$ d. Local \$ e. Other \$ f. Program Income \$ g. TOTAL \$ 650,000.00		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. Yes <input checked="" type="checkbox"/> THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE: 09/24/2009 b. No <input type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes" attach an explanation. <input checked="" type="checkbox"/> No	
a. Authorized Representative Prefix Mr. First Name Paul Middle Name T. Last Name Schadewald Suffix		c. Telephone Number (give area code) (701) 328-6326 e. Date Signed 9/25/09	
b. Title Chief, Administrative Services		d. Signature of Authorized Representative <i>Per Paul Schadewald</i>	
Previous Edition Usable Authorized for Local Reproduction		Standard Form 424 (Rev. 9-2003) Prescribed by OMB Circular A-102	
Approved Effective OCT 1 2009			

RECEIVED IN FA SEP 28 2009

STATE WILDLIFE GRANT - AMENDMENT

State Agency: North Dakota Game and Fish Department

Grant: W-91-L-1, Amendment 2

Project Title: Private Land Open to Sportsmen (PLOTS) Public Hunting Access Program

Period: April 1, 2008 – June 30, 2011

Purpose of Amendment: The project is progressing to meeting all goals outlined in the original proposal. The Objective and Approach are being amended to include additional programs that will provide public access to quality habitat for walk-in hunting. Additional programs include:

The Working Lands Program recognizes and rewards landowners for activities and resources that have a positive impact on wildlife habitat without requiring land retirement while providing public access. Land is evaluated by biologists who assign values to features such as habitat quality, conservation and management practices, habitat development, and size and location of the tract. These evaluations are used to “rank” the land and determine its overall value for the purpose of wildlife habitat and public access for walk-in hunting. Agreement length is two years and payments range from \$1-\$3 per acre with additional incentives available.

The Wetland Reserve Program (WRP) Incentive is a one-time payment on WRP signups. The Department offers an additional payment equal to 15% of the established land value, on top of the 75% that USDA-Natural Resources Conservation Service (NRCS) pays. This program can be applied to new WRP contracts and current WRP contracts and is only available for the 30 year easement feature of the WRP program. The primary purpose of the WRP Incentive is to restore, protect or enhance wetlands on private property as well as provide for public access for walk-in hunting the term of the 30-year contract.

The Private Forest Conservation Program (PFCP) provides a multi-year rental payment for maintaining and protecting native woodland habitat on private land while providing public access for walk-in hunting. Landowners who enroll in the PFCP can choose from either short-term (3-6 years) or long-term (10-20 years) agreements.

Estimated Budget: These funds are in addition to the previous budget.

\$1M Fall 2009 Working Lands Program payments

\$1M Fall 2010 Working Lands Program payments

\$200K Spring 2010 PFCP payments

\$200K Spring 2011 PFCP payments

\$500K for WRP Incentive Program payments through 6/30/11

\$250K for CRP Access Program payments through 6/30/2011

Total Project Cost **\$3,150,000**

RECEIVED INFA SEP 28 2009

Note - Since the budget is an estimate, we will only obligate part of the funds at this time. We will amend the grant in the future as funds are needed.

FUDNS OBLIGATED

\$650,000

Funding Sources:

Federal \$487,500

Non-federal \$162,500

RECEIVED INFA SEP 28 2009

PR-PLI Project

Environmental Assessment:

This project involves *temporary* acquisition of an interest in private lands statewide for the purpose of providing unrestricted public hunting access to privately owned lands during a time period specified in individual contracts with cooperating landowners. This interest is acquired from willing cooperators only. The operational activities described in this project, namely signing, are the temporary addition of small structures in an area of existing improvements on private lands that result in no or only minor changes in the use of the land. Therefore, this project qualifies as a categorical exclusion from the NEPA process as described in the federal Register, Vol.62 no.11, Page 2381, Sections 1.4(A)4 and (B)3.

The exceptions to the application of these categorical exclusions were considered by the Department and were found to be not applicable to this project.

Executive Order No. 11988, Floodplain Management. Executive Order 11988 is not deemed applicable as all work activities are categorical exclusions and will not have any adverse impact on existing structures or facilities nor will they disrupt floodplain values. This work will not change more than 10 percent of the floodplain area.

Executive Order No. 11990, Protection of Wetlands. Executive Order 11990 is not applicable as all work activities are categorical exclusions and will not have any adverse impact on wetlands.

Public Law 97-98, Farmland Protection Policy Act. Unique farmlands are lands used for the production of specific high-value crops. This project occasionally involves the installation of temporary signs. These activities do not disturb the soil nor have any permanent effect on these lands. Therefore, this project will not have any impact on prime or unique farmlands.

Endangered Species Act of 1973. With the following exceptions, no federally listed threatened or endangered species or critical habitats occur within or adjacent to the areas affected by this project.

Exceptions:

1) Whooping crane (*Grus americana*). During migration whooping cranes have stopped for short periods on McKenzie Slough, Arena and Lake Sakakawea Wildlife Management Areas. These birds are monitored by State and Federal enforcement and biological staff. Disturbance of these birds is limited. To avoid impacts on whooping cranes, work being conducted on areas will cease while cranes are present. If warranted, after consultation with the Fish and Wildlife Service, areas with whooping cranes present will be temporarily closed to hunting

RECEIVED IN FA SEP 28 2009

and other activities.

2) Interior Least Tern and Piping Plover. These birds are known to occur on the Department's Missouri River Wildlife Management Areas and on Lake Arena, McPhail, Horsehead, Ashley, Audubon, and Palermo Wildlife Management Areas. Work will not be done that will affect their habitat. The North Dakota Game and Fish Department's Endangered Species Program includes signing of nesting areas to keep the public away from nesting birds. The Department will not do project work in adjacent areas that will disturb nesting birds.

3) Western Prairie Fringed Orchid. These occur in Ransom and Richland counties. This project will not negatively impact these and may protect some land where they occur.

4) Pallid Sturgeon, Sicklefin Chub and Sturgeon Chub – These species occur in the Missouri River, but will not be negatively impacted by this program.

5) Black-footed Ferret, Gray Wolf and Prairie Dog – Black-footed ferret are not currently known to inhabit North Dakota. Gray Wolf are not established in North Dakota. Occasionally individual animals travel through North Dakota from nearby established populations in other states. Prairie dogs are at scattered locations in the western half of North Dakota. Project work will not affect areas where these species are known to occur.

The above exceptions are further addressed in the Department's Programmatic Agreement with the USFWS Ecological Services ND Field Office, dated January 2008, where it was determined that the project actions may affect, but is not likely to adversely affect, these species or result in the destruction or adverse modification of critical habitat for them.

Sport hunting is a common activity on private lands statewide during open seasons. This project simply opens these same private lands to public hunting access for the purpose of hunting. Therefore, this project is not expected to have any impact on any of the species considered.

Environmental Justice (Executive Order 12898): This project will not have disproportionately high and adverse human health or environmental effects on low income populations, minority populations, or Indian tribes.

Invasive Species (Executive Order 13112): This project will not promote the introduction or spread of invasive species.

State Historical Preservation Officer (SHPO) Review – This review is waived as per Memorandum of Agreement Dated September 24, 2001.

This proposal is completely covered by categorical exclusion 1.4B3 in 516 DM 2, Appendix 1; and/or 516 DM 6, Appendix 1.

This proposal does not have significant adverse effects on public health or safety.

This proposal does not have significant adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas under Federal ownership or jurisdiction.

This proposal does not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].

This proposal does not have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

This proposal does not have a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

This proposal does not have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

This proposal does not have significant adverse effects on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau or office, the State Historic Preservation Officer, the Tribal Historic Preservation Officer, the Advisory Council on Historic Preservation, or a consulting party under 36 CFR 800.

This proposal does not have significant adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant adverse effects on designated Critical Habitat for these species.

This proposal does not have the possibility of violating a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

This proposal does not have the possibility for a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

This proposal does not have the possibility to limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).

This proposal does not have the possibility to significantly contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

RECEIVED IN FA SEP 28 2009